



Australian Energy Market Commission

FINAL RULE DETERMINATION

National Electricity Amendment (Updating the electricity B2B framework) Rule 2016

Rule Proponents

COAG Energy Council
Red Energy and Lumo Energy

30 June 2016

RULE
CHANGE

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About the AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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Summary

The Australian Energy Market Commission (AEMC or Commission) has made a final rule to update the governance and other arrangements for electricity business-to-business (B2B) procedures on communications for services related to small customer meters.

The final rule, which is a more preferable rule, amends the B2B arrangements under the National Electricity Rules (NER) to facilitate communications between a wider range of parties that may be interested in providing and using services related to small customer meters. This is expected following the commencement of the competition in metering final rule on 1 December 2017.

Implementation of the final rule is expected to enhance the efficiencies and benefits of the competition in metering rule change and other Power of Choice reforms by facilitating communications between the businesses offering and accessing services related to a small customer's meter. A shared communication method is likely to improve interoperability as participants may only need to develop one set of processes in order to interact with other participants in the market. It is likely to reduce barriers to entry for new participants providing consumers with new services that are enabled by advanced meters. It is also likely to support innovation in new services and reduce the costs of providing those services.

The Commission has made this final rule determination in response to two rule change requests received from: the Council of Australian Governments (COAG) Energy Council; and Red Energy and Lumo Energy (collectively, the proponents). These rule change requests were consolidated into a single rule change process as similar issues were raised.

While the final rule is a more preferable final rule, it contains many of the elements proposed in the rule change requests and is largely consistent with the draft rule.

Final advice on implementing a shared market protocol

The rule change requests were submitted in response to recommendations made by the AEMC in its final advice on implementing a shared market protocol, published on 8 October 2015. The shared market protocol final advice was developed as part of the suite of market reforms arising from the AEMC's Power of Choice review in 2012.

The shared market protocol final advice recommended updating the electricity B2B communications framework to accommodate the wider range of services that were expected to become available through advanced meters as well as the wider range of parties that may be interested in those services. It provided detailed recommendations on how this could be implemented.

The rule change requests

The proponents noted that the changes being implemented under the AEMC's final rule on competition in metering are expected to result in the market led deployment of advanced meters for small customers. As a result, the proponents considered that the existing B2B framework in the NER would no longer be suitable. Specifically:

- the membership of the Information Exchange Committee (IEC), the group that is responsible for developing recommended changes to B2B procedures, would no longer reflect all the parties interested in services that relate to small customer meters;
- the process and criteria for making or amending B2B procedures would not reflect the range of new services available through advanced meters or the parties interested in those services;
- the existing B2B e-hub, the electronic platform used to send B2B communications, is not capable of supporting the 'near instant' messages that may be necessary for providing many advanced metering services;
- the rights and obligations that apply to parties using the B2B e-hub would not apply to new parties that may wish to use the B2B e-hub in the future. It may be desirable for those parties to be able to use the B2B e-hub and have rights and obligations under the B2B framework; and
- consideration should be given to whether a wider set of parties that may use the B2B e-hub in the future should pay fees in respect to B2B costs.

Overview of the final rule

The final rule amends the B2B arrangements in the NER to address the issues raised by the proponents and stakeholders in response to the consultation paper and draft rule determination.

The key features of the final rule include:

- Amending the membership of the IEC to include:
 - an Australian Energy Market Operator (AEMO) member (an AEMO director who will be the chairperson of the IEC);
 - one distribution network service provider (DNSP) member (elected by DNSPs);
 - one retailer member (elected by retailers and local retailers);
 - one metering member (elected by metering coordinators, metering providers and metering data providers);

- one third party B2B participant member (elected by third party B2B participants, a new type of accredited party);
 - one consumer member representing the interests of small customers (appointed by AEMO in consultation with Energy Consumers Australia); and
 - at least two, and up to four, discretionary members to represent a class or classes of B2B parties whose interests are not adequately represented on the IEC (appointed by AEMO).
- The B2B procedures must provide for B2B communications that support each of the services set out in the minimum services specification (the services that an advanced meter must be capable of providing). The IEC would be able to recommend the inclusion of additional B2B communications in B2B procedures in accordance with the procedure change process.
 - The IEC must have regard to the national electricity objective (NEO) and a new set of B2B factors when considering a proposed change to B2B procedures. It must also seek to give effect to a revised set of B2B principles. This expands the previous considerations to include wider interests such as whether a B2B procedure change would facilitate innovation or lower barriers to entry in the market for services available through an advanced meter. While the previous considerations are still relevant, additional considerations are necessary to assist the IEC in making decisions that effectively support both the provision of innovative and competitive metering services and new participants in the market.
 - AEMO must approve an IEC recommendation to make a change to B2B procedures unless the recommendation is inconsistent with the market settlement and transfer solution (MSATS) procedures. Reducing the grounds on which AEMO may veto an IEC recommendation to change the B2B procedures, as well as other changes in the final rule, simplify and clarify the framework for approving B2B procedures.
 - The B2B e-hub must have the capability to facilitate B2B communications in accordance with the B2B procedures and 'free form' messages. It must also meet any performance requirements specified in the B2B procedures.
 - Any party wishing to use the B2B e-hub must be accredited with AEMO. AEMO would have discretion to apply suitable IT, security and credit support requirements as it considers necessary.
 - Costs associated with the development of B2B procedures, establishment and operation of the IEC and services provided by AEMO to facilitate B2B communications (including operation of the B2B e-hub) are to be paid by AEMO and may be recouped through participant fees. Third party B2B participants are deemed to be registered participants for this purpose.

Changes from the draft rule to the final rule

The final rule is largely consistent with the draft rule and key policy positions have not changed. However, some changes have been made in response to submissions to clarify the operation of certain provisions in the draft rule and to supplement the framework proposed in the draft rule. These include:

- changing certain requirements relating to the appointment of discretionary members;
- clarifying that IEC members may appoint alternates subject to particular requirements;
- extending the restrictions under the draft rule on related bodies corporate nominating and voting for IEC members to provide for partnership and trust arrangements;
- clarifying AEMO's ability to recover costs relating to the AEMO member;
- changing the timing requirements for the IEC to consider a proposal to change the B2B procedures from 'within 25 business days' to 'as soon as practicable' after receiving the proposal; and
- including transitional arrangements that provide for:
 - the cessation of the previous IEC on 30 June 2016;
 - the B2B procedures as in force immediately before the final rule remain in force until the substantive aspects of the B2B framework are introduced in December 2017;
 - AEMO to develop and publish new IEC election procedures and operating manual by 1 August 2016;
 - AEMO to establish a new IEC in accordance with the transitional rules and IEC election procedures and operating manual by 1 September 2016;
 - the new IEC to recommend changes to the B2B procedures at the latest by 1 May 2017 that will commence on 1 December 2017, taking into account the final rule, the competition in metering final rule and the embedded networks final rule;
 - AEMO to publish the new B2B procedures within 20 business days of the IEC recommendation; and
 - AEMO to establish and publish information in respect of the process for accreditation as a B2B e-hub participant by 1 June 2017.

In early June 2016, AEMO established a committee referred to as the 'transitional IEC' to provide a forum for parties that may be interested in B2B procedures to commence

preliminary work on matters that may need to be considered by the new IEC under the final rule. AEMO elected to form this interim group to facilitate implementation of the final rule. AEMO's 'transitional IEC' was formed to reflect the IEC membership requirements set out in the draft rule. However, it is not a body that is required to be formed under, or otherwise recognised by, the NER or NEL. The Commission understands that the 'transitional IEC' will cease to operate on or before 1 September 2016, once the new IEC is formed.

Expected benefits

The Commission considers that the final rule will, or is likely to, better contribute to the NEO compared to the previous B2B framework and the proposed rules. It is generally expected to provide benefits to small customers and the parties that are providing and accessing services related to small customer meters.

Requiring B2B procedures to contain B2B communications that support the services in the minimum services specification is anticipated to improve interoperability for parties providing services enabled by advanced meters. This means that a new entrant to the market may only need one set of processes to communicate with other parties in the market. Improving interoperability with a shared communication method may lower barriers to entry for new participants and support operational efficiencies for participants. In both instances, more parties may be encouraged to offer services in respect of advanced meters. This may lead to a wider range of services becoming available (competitive innovation) which may be more tailored to suit the differing needs of individual businesses and customers.

In addition, the final rule supports innovation in the market for services as it allows parties to agree to use an alternative communication method and requires the IEC to consider the impacts on innovation and barriers to entry when considering a proposed B2B procedure change. Supporting innovation in the market for services in respect of small customer meters may also result in a wider range of services becoming available for the benefit of market participants and small customers.

The final rule is also likely to provide the benefits of a new IEC membership that better reflects the variety of parties that will be interested in services regarding small customer meters. The new membership arrangements provide for an IEC with both diverse membership and flexibility to enable it to reflect changing market conditions over time. The wider breadth of membership should facilitate informed decision-making.

Implementation

Under the final rule, the substantive changes to the B2B framework will be implemented on 1 December 2017. This is the same date that related reforms regarding competition in metering and embedded networks will commence. The Commission considers that aligning these reforms is likely to maximise the benefits of these reforms.

As part of the process of implementing the changes under the final rule, the IEC will be re-formed with a new membership and will amend the B2B procedures to take into

account certain new B2B communications. These new B2B communications will support the provision of at least the minimum set of services that are expected to be available through advanced meters. Figure 1 below provides an overview of the implementation schedule and key dates for AEMO and the IEC under the final rule.¹

Figure 1 Implementation tasks for AEMO and the IEC



¹ The dates provided are final dates for implementation milestones. AEMO and the IEC may complete certain of these tasks ahead of these dates.

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1 Consolidated rule change request

This final rule determination addresses two rule change requests submitted to the Australian Energy Market Commission (AEMC or Commission). Both rule change requests sought changes to the electricity business-to-business (B2B) framework in the National Electricity Rules (NER) to support the introduction of the new framework for metering services under the expanding competition in metering and related services (competition in metering) final rule determination.² The rule change requests were submitted in response to recommendations made by the AEMC in its final advice on implementing a shared market protocol (SMP final advice), published on 8 October 2015.³

1.1 The rule change requests

On 7 December 2015, Red Energy and Lumo Energy (Red and Lumo) submitted a rule change request proposing amendments to the B2B framework in Chapter 7 of the NER. On 11 December 2015, the Council of Australian Governments (COAG) Energy Council submitted a rule change request that also proposed amendments to the B2B framework in the NER.

There are many similarities between the rule change requests by the COAG Energy Council and Red and Lumo (collectively, the proponents). Both propose changes to the B2B framework to support communications between a wider group of parties that may wish to offer or access services related to advanced meters. These changes are expected under the new framework for competitive metering services being introduced under the competition in metering final rule determination.

However, the proponents have proposed different approaches to some issues, such as the governance arrangements of the Information Exchange Committee (IEC) and the process for making and amending B2B procedures.

Details of the rule changes proposed by the COAG Energy Council and Red and Lumo are set out in section 1.4 and in Chapters 3 to 6 of this final rule determination.

As the COAG Energy Council rule change request covers similar issues to those presented in the Red and Lumo rule change request, the Commission consolidated the two rule change requests under s. 93 of the National Electricity Law (NEL) (consolidated rule change request). This has enabled a single consultation and decision-making process.

² AEMC, Expanding competition in metering and related services, Final rule determination, 26 November 2015.

³ AEMC, Implementation advice on the shared market protocol, Final advice, 8 October 2015. The SMP final advice provided detailed recommendations regarding updating the B2B communications framework in the NER to accommodate the wider range of services that will be available through advanced meters, and the wider range of parties that will be interested in those services.

1.2 Previous arrangements

For the purposes of this final rule determination, the 'previous' B2B arrangements refer to the B2B arrangements in rule 7.2A of the NER immediately prior to the date of this final rule determination. As detailed in section 1.5, the competition in metering final rule and the embedded networks final rule⁴ will make amendments to certain aspects of the B2B arrangements on 1 December 2017.

Under the previous B2B arrangements, communications between local retailers, market customers and distribution network service providers (DNSPs) regarding the supply of electricity to end users occurred through the B2B e-hub, an electronic information exchange platform provided and operated by the Australian Energy Market Operator (AEMO).⁵

Local retailers, market customers and DNSPs were required to use the B2B e-hub for B2B communications,⁶ except where they agreed to communicate a B2B communication on a basis other than as set out in the B2B procedures.⁷

The B2B procedures included requirements for the content, format, delivery and timing for B2B communications.⁸ Previously, local retailers, market customers, DNSPs, AEMO, metering providers and metering data providers were required to comply with the B2B procedures.⁹

Unlike other procedures provided for in Chapter 7 of the NER that are established and maintained by AEMO, the B2B procedures were only made by AEMO on the recommendation of the IEC. The IEC consisted of three DNSP members, three local retailer or market customer members and two independent members.¹⁰ The nomination and appointment process for, and requisite qualifications of, members of the IEC were set out in the IEC election procedures.¹¹ Requirements with respect to

⁴ AEMC, Embedded networks, Final rule determination, 17 December 2015.

⁵ Previous NER, clause 7.2A.1.

⁶ 'B2B communications' were defined in Chapter 10 of the previous NER as 'communications between local retailers, market customers and DNSPs relating to an end-user or supply to an end user provided for in the B2B procedures'.

⁷ Previous NER, clauses 7.2A.1 and 7.2A.4(k). Where such parties agreed between themselves to communicate a B2B communication on a basis other than as set out in the B2B procedures, the parties did not need to comply with the B2B procedures to the extent that the terms and conditions agreed between them were inconsistent with the B2B procedures.

⁸ Previous NER, clause 7.2A.4.

⁹ Previous NER, clause 7.2A.4(i).

¹⁰ Previous NER, clause 7.2A.2.

¹¹ Available from:
http://www.aemo.com.au/~/_/media/Files/Other/electricityops/0000-0223%20pdf.pdf.

the election and appointment (as the case may be) of the IEC chairperson and secretary and the conduct of IEC meetings were set out in the IEC operating manual.¹²

A change to the B2B procedures could only be proposed by AEMO, a local retailer, a market customer or a DNSP. The IEC was responsible for consulting on any such proposal and making recommendations on the proposal to AEMO.¹³ The IEC was able to conclude not to recommend the proposed new B2B procedure or change to the existing B2B procedures. Alternatively, the IEC could make a recommendation for a new procedure or change to the existing procedures, which could have been different from the original proposal.¹⁴ In coming to a conclusion on whether or not to make a recommendation, the IEC was required to seek to achieve the B2B objective having regard to the B2B principles.¹⁵

A decision by the IEC to recommend a change to the B2B procedures required the support of six or more members of the IEC.¹⁶ AEMO was required to approve the recommendation of the IEC and make the B2B procedure unless it concluded that:¹⁷

- the IEC failed to have regard to the B2B objective or the B2B principles;
- the IEC did not followed the rules consultation procedures;¹⁸ or
- the recommendation would conflict with market settlement and transfer solution (MSATS) procedures.

A decision of the IEC to recommend a change to the B2B procedures, and AEMO's decision to approve (or not approve) such recommendation, could be reviewed under the dispute resolution arrangements set out in clause 8.2A.2 of the previous NER.

1.3 Rationale for the rule change requests

The proponents considered that the existing B2B framework will not be suitable in the future. They noted that the changes being implemented under the AEMC's final rule on competition in metering are expected to result in the market led deployment of advanced meters. Among other things, the competition in metering final rule is expected to result in a wider range of services being available in respect of small

12 Available from:
http://www.aemo.com.au/About-the-Industry/Working-Groups/~/_media/Files/Other/WorkingGroups/IEC%20Operating%20Manual.pdf.ashx.

13 Previous NER, clause 7.2A.3.

14 Previous NER, clause 7.2A.3(i).

15 Previous NER, clause 7.2A.3(j).

16 Previous NER, clause 7.2A.2(m).

17 Previous NER, clause 7.2A.3(k).

18 The IEC was required to follow the rules consultation procedures (as supplemented by clause 7.2A.3 of the previous NER) in relation to a proposal for a new B2B procedure or change to the existing B2B procedures. See clause 7.2A.3(e).

customer¹⁹ meters and a wider range of parties (such as metering coordinators) may be interested in those services.

The proponents acknowledged that the proposed changes to the B2B framework are not vital to support the commencement of competition in metering. However, the COAG Energy Council considered that a suitable communications framework to support advanced metering services would maximise the efficiencies and benefits of those reforms for consumers.

The key issues raised in each of the rule change requests reflect those identified by the AEMC in its SMP final advice:²⁰

- **IEC membership:** The membership of the IEC would no longer reflect all the parties interested in services available through a customer's meter. For example, metering coordinators and third party service providers may wish to communicate regarding these services.²¹
- **Making B2B procedures:** The process and criteria for making or amending B2B procedures would not reflect the range of new services available through advanced meters or the parties interested in those services. For example, the previous B2B objective and B2B principles²² are focussed on costs and benefits for DNSPs, local retailers and market customers. Going forward, wider interests may be relevant such as the interests of consumers and new entrants to the market.²³ The COAG Energy Council considered that, given these wider interests, AEMO should have a greater role in the decision-making process.
- **IT platform:** The existing B2B e-hub is not capable of supporting the 'near instant' messages that may be necessary for providing many advanced metering services.²⁴
- **Accreditation:** Currently, all parties using the B2B e-hub are either registered participants or accredited service providers. They are defined under the NER and certain rights and obligations currently apply to them in their capacity as registered participants and accredited service providers, respectively. In the future, other third parties (who are neither registered participants nor accredited service providers) may wish to use the B2B e-hub and it may be desirable to provide rights and impose obligations on these parties.²⁵ Red and Lumo also

¹⁹ Under the competition in metering final rule, a 'small customer' includes all residential customers and business customers that consume less than the upper consumption thresholds set by jurisdictions. See definition of 'small customer' in the competition in metering final rule.

²⁰ AEMC, Implementation advice on the shared market protocol, Final advice, 8 October 2015. Discussed in section 1.5 below.

²¹ COAG Energy Council rule change request, p. 6; Red and Lumo rule change request, pp. 6-7.

²² These are outlined in section 4.4.1.

²³ COAG Energy Council rule change request, p. 7; Red and Lumo rule change request, p. 7.

²⁴ COAG Energy Council rule change request, p. 8; Red and Lumo rule change request, p. 8.

²⁵ *ibid.*

considered an additional certification process would enable parties to test their systems are compatible with the B2B e-hub.

- **Cost recovery:** Costs related to the IEC and B2B e-hub are recouped through participant fees and currently paid by retailers. Consideration should be given to whether a wider set of parties should pay fees in respect to B2B costs.²⁶

1.4 Solutions proposed in the rule change requests

The proponents' respective rule change requests sought to resolve the issues discussed above by amending the B2B arrangements in Chapter 7 of the NER. The key objective of the proposed amendments is to facilitate communications between businesses involved in the provision of advanced metering services, in order to improve efficiencies for businesses and improve benefits for consumers.

The two rule change requests share a number of key features as they were both developed having regard to the recommendations made by the AEMC in the SMP final advice. Broadly, the proposed amendments to Chapter 7 of the NER that are common to both rule change requests are:

- The membership of the IEC would be updated to include the wider range of parties interested in services related to a small customer's meter and provide some flexibility in the membership over time. Requirements for the election or appointment of members (including certain requisite qualifications of IEC members), which were previously outlined in the IEC election procedures, would be incorporated into the NER.
- Decisions regarding changes to the B2B procedures would be based on updated B2B principles and a set of new B2B factors that incorporate certain additional matters that are relevant to advanced metering services.
- The B2B e-hub would be required to meet the requirements specified in B2B procedures, including any performance requirements.
- The requirements to comply with B2B procedures and use the B2B e-hub would be expanded to include the new parties involved in the provision of services related to small customer meters.
- A new accredited party role would be established and any party wishing to use the B2B e-hub would need to be accredited with AEMO.
- Costs would continue to be recovered by AEMO through participant fees.

The key differences between the two rule change requests are:

- The proponents have proposed different membership structures for the IEC. As a result, the election or appointment of members and requirements for IEC

²⁶ COAG Energy Council rule change request, p. 9; Red and Lumo rule change request, p. 9.

meetings (including quorum and voting) are different. Red and Lumo also suggested that the IEC be re-named the Retail Industry Panel.

- Certain B2B factors were only proposed by one of the proponents:
 - Red and Lumo included a B2B factor that is based on the national electricity objective (NEO);
 - COAG Energy Council included a B2B factor for the IEC to consider whether a B2B procedure is 'an efficient way to enable parties to meet a legal obligation' (for example, a jurisdictional regulatory requirement).²⁷
- COAG Energy Council proposed a greater role for AEMO in the decision making process. Specifically, that AEMO would be responsible for assessing an IEC recommendation against the NEO and would be able to reject an IEC recommendation on those grounds.
- Red and Lumo proposed changes to the IEC's process for making or amending a B2B procedure to make it more consistent with the process AEMO undertakes for other procedure changes made under Chapter 7 of the NER.
- Red and Lumo proposed a certification process in addition to an accreditation process to require parties to test their IT systems prior to accessing the B2B e-hub.
- COAG Energy Council requested the AEMC to consider whether third party service providers should be registered participants instead of accredited parties. This would enable appropriate regulation of third party service providers in the market.

A detailed explanation of the proposed changes, including a comparison of the common features and key differences, is provided in Chapters 3 to 6.

1.5 Relevant background to the rule change requests

Advice on implementing a shared market protocol

The proponents' rule change requests were submitted following the publication of the AEMC's SMP final advice on 8 October 2015.

The SMP final advice was developed as part of the suite of market reforms arising from the AEMC's Power of Choice review in 2012. One of the areas of reform is improving demand side participation and assisting consumers to make more informed decisions about how they use electricity. Facilitating technologies to assist customers, such as advanced meters, have been an important part of this work. The framework for open

²⁷ COAG Energy Council rule change request, p. 12.

access and common communication standards for advanced meters, which led to the SMP final advice, has also been a part of this reform process.²⁸

The SMP final advice recommended updating the B2B communications framework in the NER to accommodate the wider range of services that will be available through advanced meters, and the wider range of parties that will be interested in those services. The SMP final advice provided detailed recommendations on how this could be implemented in the NER. Broadly, it recommended this be done by:²⁹

- updating the membership of the IEC to include the wider range of parties expected to have an interest in B2B procedures;
- updating other aspects of the governance arrangements for B2B procedures, such as the decision-making process of the IEC;
- expanding and updating the content requirements for B2B procedures to provide for new B2B communications to support the services in the minimum services specification;
- introducing a new accredited party role (B2B e-hub participant) and requiring that any party wishing to use the B2B e-hub would need to be accredited by AEMO in that role;
- requiring AEMO to maintain a B2B e-hub that has the capability to facilitate B2B communications in accordance with B2B procedures; and
- updating the cost recovery provisions.

Competition in metering final rule determination

The competition in metering final rule was made on 26 November 2015 and introduced significant changes to Chapter 7 of the NER. Under that final rule, B2B arrangements will be set out in rule 7.17 of the NER upon the commencement of the new framework for metering services on 1 December 2017. The changes to the B2B arrangements under that final rule are minor and include re-numbering, updating cross-references and removing certain redundant provisions relating to the initial establishment of the IEC.

The key features of the competition in metering final rule that are relevant to this rule change process are:

- The role and responsibilities of the 'responsible person' under the previous NER will be provided by a new type of registered participant - the 'metering coordinator'. The metering coordinator will also have a number of new responsibilities related to the provision of advanced metering services.

²⁸ AEMC, Framework for open access and common communication standards, Report, 31 March 2014.

²⁹ AEMC, Implementation advice on the shared market protocol, Final advice, 8 October 2015.

- Subject to certain limited exceptions, all new and replacement metering installations for small customers must be type 4 metering installations connected to a telecommunications network that enables remote access and be capable of providing the services set out in the 'minimum services specification' in the NER.³⁰
- The final rule clarifies which parties may access or receive certain types of data including energy data, metering data, settlements ready data, national metering identifier (NMI) standing data and data from the metering register for a metering installation.³¹
- While the metering installation must meet the minimum services specification, there is no requirement for the metering coordinator to provide the services set out in the minimum services specification.³² Rather, the terms and conditions on which those services are provided, if at all, will be subject to commercial negotiation between parties.
- A transitional provision provides that DNSPs must comply with the B2B arrangements in their role as 'initial metering coordinators' and that certain definitions relevant to B2B arrangements (such as the B2B objective and B2B principles) are deemed to include references to initial metering coordinators to ensure that such parties' interests are taken into account during the procedure change process for B2B procedures.³³
- Transitional provisions provide for the B2B procedures to be updated to take into account changes made under the final rule. Namely, the IEC must make a recommendation to update the B2B procedures by 1 August 2016 and AEMO must publish the updated B2B procedures by 1 September 2016.³⁴

Embedded networks final rule determination

On 17 December 2015, the AEMC published a final rule determination and final rule on embedded networks which, among other things, made further changes to Chapter 7 of the NER as amended by the competition in metering final rule.³⁵

The embedded networks final rule created a new accredited provider role (an embedded network manager) to perform the market interface functions that link embedded network customers to energy market systems.

³⁰ See AEMC, Competition in metering and related services, Final rule determination, 26 November 2015, Appendix C1.

³¹ See AEMC, Competition in metering and related services, Final rule determination, 26 November 2015, Appendix A5.

³² However, there are certain obligations on the metering data provider to provide data, or access to data, for certain purposes. See clauses 7.10.2 and 7.10.3 of the competition in metering final rule.

³³ Competition in metering final rule, clause 11.86.9. The role of 'initial metering coordinator' is described in clauses 11.86.7(a) and 11.86.7(c) of the competition in metering final rule.

³⁴ Competition in metering final rule, clause 11.86.6.

³⁵ AEMC, Embedded networks, Final rule determination, 17 December 2015.

The embedded network manager will be responsible for providing market interface functions to facilitate off-market embedded network customers changing to on-market, such as obtaining a NMI. Given these functions, embedded network managers will be required to comply with a number of procedures, including B2B procedures, and will be included within certain definitions used in the B2B framework.³⁶ However, the embedded networks final rule does not include embedded network managers as a party that must use the B2B e-hub, or as a party that is directly represented on the IEC.³⁷

³⁶ Embedded networks final rule, 'B2B communications', 'B2B objective' and 'B2B principles' in Chapter 10.

³⁷ See AEMC, Embedded networks, Final rule determination, 17 December 2015, Appendix C.2.8.

2 Final rule determination

This chapter outlines:

- the Commission's rule making test for changes to the NER;
- the assessment framework used by the Commission in considering the consolidated rule change request; and
- the Commission's consideration of the final rule against the NEO.

Further information on the legal requirements for making this final rule determination is set out in Appendix B.

2.1 Final rule

In accordance with s. 102 of the NEL, the Commission has made this final rule determination in relation to the consolidated rule change request.

The Commission has made a final rule, which is a more preferable final rule (final rule). The final rule contains many of the proposed changes to the NER set out in the consolidated rule change request and in the draft rule. Aspects of the final rule that differ from the proponents' respective proposed rules are outlined in Chapters 3 to 6.

In brief, the final rule:

- amends the membership structure of the IEC and other aspects of the B2B governance arrangements;
- updates the content requirements for B2B procedures and the decision making process for making changes to the B2B procedures;
- introduces new requirements for the B2B e-hub to support B2B communications;
- introduces a new accredited party role (a B2B e-hub participant) for anyone wishing to use the B2B e-hub; and
- updates the cost recovery provisions.

The purpose of these changes is to provide a B2B framework suitable for the wider range of services that are likely to be available in respect of advanced meters as well as the wider range of parties that will likely be interested in accessing or offering those services. The Commission's reasons for making this final rule determination and the final rule are set out in section 2.4 and Chapters 3 to 6.

2.2 Rule making test

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NEO. This is the decision making framework that the Commission must apply.

The NEO is:³⁸

“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

In this case, the relevant aspects of the NEO are the promotion of the efficient investment in, and efficient operation and use of, electricity services. In particular, investment in and use of the services that can be provided in respect of advanced meters for the benefit of small customers.

2.3 Assessment framework

In assessing the rule change request against the NEO the Commission has considered the following principles:

- **Facilitate competition in the provision of services available through advanced meters.** The communications framework for businesses should support competition and not provide any party with a competitive advantage. Competition has the potential to result in services being offered at the most efficient prices. Service providers may seek to find a competitive advantage by differentiating their services. This may result in a greater range of services being offered to businesses and consumers. Competition may be supported by minimising barriers to entry.
- **Support innovation in the provision of new services and the associated means of communication.** Supporting innovation in new services and alternative methods of communication has the potential to result in a greater range of services being offered to businesses and consumers as it allows more efficient options to be discovered. This could support business and operational efficiency improvements and benefits to electricity consumers.
- **Facilitate the efficient ongoing development of B2B communications.** The communications framework should be flexible to changing market needs as the services available through advanced meters will be driven by market demand.

³⁸ NEL, s. 7.

The framework should also facilitate the efficient development of B2B procedures and the B2B e-hub.

- **Impose regulation that is proportional to the issues.** The regulatory framework that is established should be proportional to the issues. The framework should not impose unnecessary administrative or compliance costs on businesses providing services through advanced meters and consequently impose greater costs on consumers.

The Commission has also assessed the consolidated rule change request against the relevant counterfactual arrangements, which in this case are the B2B arrangements in the NER as amended by:

- the competition in metering final rule made on 26 November 2015; and
- the embedded networks final rule made on 17 December 2015.

2.4 Summary of reasons

The final rule made by the Commission (which is a more preferable final rule) has been published with this final rule determination.

As described in more detail in Chapter 6, the final rule amends the B2B arrangements in Chapter 7 of the NER with effect from the date the rule is made and then again on 1 December 2017. This implementation process is to ensure that the substantive changes to B2B arrangements in Chapter 7 of the NER are aligned with the introduction of the new framework for metering services under the final rule for competition in metering. Certain transitional arrangements and consequential changes to Chapters 8, 10 and 11 of the NER will also commence prior to 1 December 2017.

The key features of the final rule are:

- The membership of the IEC is amended to include:
 - an Australian Energy Market Operator (AEMO) member (an AEMO director who will be the chairperson of the IEC);
 - one distribution network service provider (DNSP) member (elected by DNSPs);
 - one retailer member (elected by retailers and local retailers);
 - one metering member (elected by metering coordinators, metering providers and metering data providers);

- one third party B2B participant member (elected by third party B2B participants);³⁹
 - one consumer member (appointed by AEMO); and
 - at least two, and up to four, discretionary members (appointed by AEMO).⁴⁰
- Certain requirements regarding the election and appointment (as the case may be) of IEC members and their requisite qualifications have been elevated to the NER from the IEC election procedures and updated consistent with the new IEC membership structure and B2B arrangements.
 - The introduction of nomination and voting restrictions that prevent related bodies corporate and related entities from having additional voting power within an IEC membership category to secure a position on the IEC.⁴¹
 - The B2B procedures must provide for B2B communications that support the services in the minimum services specification. The IEC would be able to recommend the inclusion of additional B2B communications in B2B procedures in accordance with the procedure change process.
 - Any party (other than the IEC) may initiate a proposed change to B2B procedures.⁴²
 - The IEC must have regard to the NEO and B2B factors, and seek to give effect to the B2B principles, when considering a proposed change to B2B procedures.
 - AEMO must approve an IEC recommendation to make a change to B2B procedures unless the recommendation is inconsistent with MSATS procedures.
 - AEMO and all B2B parties are required to comply with B2B procedures. B2B parties include: DNSPs; retailers; local retailers; metering coordinators; metering providers; metering data providers; embedded network managers; and third party B2B participants.
 - B2B parties are required to use the B2B e-hub for B2B communications, unless the parties making the communication mutually agree otherwise.
 - The B2B e-hub must have the capability to facilitate B2B communications in accordance with the B2B procedures and 'free form' messages. It must also meet any performance requirements specified in B2B procedures.

³⁹ A third party B2B participant is a party that is accredited to use the B2B e-hub (see section 5.4) that is not a DNSP, retailer, local retailer, metering coordinator, metering provider or metering data provider.

⁴⁰ See section 3.2 for further details on the membership structure of the IEC.

⁴¹ See section 3.3.4 for an explanation of the parties that are subject to these restrictions.

⁴² The exception is during the transitional period where the IEC is required to develop B2B procedures in accordance with the final rule. See section 6.5.

- Any party wishing to use the B2B e-hub must be accredited by AEMO.
- Costs associated with the development of B2B procedures, establishment and operation of the IEC and services provided by AEMO to facilitate B2B communications (including operation of the B2B e-hub) are to be paid by AEMO and may be recouped through participant fees. Third party B2B participants are deemed to be registered participants for the purposes of rule 2.11 of the NER (participant fees).⁴³

Further detail on the final rule can be found in Chapters 3 to 6.

Having regard to the issues raised in the rule change requests and submissions, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NEO for the following reasons:

- The final rule is expected to support improvements in interoperability for parties providing services enabled by advanced meters. The B2B procedures are required to provide for B2B communications that support the services in minimum services specification and the B2B e-hub must support B2B communications as required by the B2B procedures. This establishes a 'standard' or default set of communications for participants to use, unless they agree to an alternative communication method. Improving interoperability is expected to lower barriers to entry for new participants and provide greater efficiencies and reduced operating costs.
- The IEC is required to consider the likely impacts of its recommendations on barriers to entry to the market for metering services as part of the B2B factors. Minimising barriers to entry for new participants may result in more parties offering services through advanced meters. This may lead to a wider range of services becoming available (competitive innovation), providing users with the opportunity to find services that best suit their needs. Improvements in competition may result in price and quality differentiation, which allows businesses and consumers to choose services based on their cost and quality.
- The final rule enables participants to agree to use an alternative to the B2B e-hub as the method of communication. Market participants are able to determine the most effective or efficient way of communicating with each other and as such the final rule supports innovation. In addition, innovation is supported through requiring the IEC to consider the likely impacts on innovation as part of the B2B factors, allowing any person to propose a change to the B2B procedures and requiring the B2B e-hub to support free form messaging. Supporting innovation in the market for services available through a customer's meter may also result in a wider range of services becoming available. The final rule does not inhibit the discovery of more efficient communication methods.
- The final rule expands the membership of the IEC to include a wider range of industry and consumer representation that will be involved in accessing or

providing services through advanced meters. Greater industry and consumer involvement in decision making within a clear framework is expected to result in more informed decisions and efficient investment.

- The final rule provides for a new accredited party role that allows AEMO to apply suitable accreditation requirements. This flexibility allows the accreditation criteria to be proportional to the risks of interfacing with the B2B e-hub as this changes over time and allows AEMO to minimise compliance costs where appropriate.

Under s. 91A of the NEL, the AEMC may make a rule that is different (including materially different) from a proposed rule if it is satisfied that, having regard to the issues raised by the rule change request, the more preferable rule will, or is likely to, better contribute to the achievement of the NEO than the proposed rule.

The Commission considers that the final rule will, or is likely to, better contribute to the achievement of the NEO than the proposed rules because it:

- Includes IEC membership arrangements that will facilitate a greater range of expertise of IEC members to participate in the B2B decision making process over the long term. Under the final rule the IEC will include both elected and appointed representatives of industry, AEMO and small customers. This enables the IEC to have both diverse membership and flexibility to reflect changing market conditions over time. The membership arrangements are expected to facilitate informed decision-making over time.
- Includes new criteria for IEC decision making. In addition to the B2B principles, the IEC will be required to have regard to the NEO and new B2B factors. These are more appropriate for the consideration of competitive metering services that may be offered through advanced meters. This is expected to improve the effectiveness of IEC decisions and provide a clear decision-making framework.
- Provides clear grounds on which AEMO may refuse to approve an IEC recommendation to change the B2B procedures. This simplifies the decision making process and clarifies the respective roles of AEMO and the IEC under the B2B arrangements. These provisions have been made to support improved efficiencies in decision making.
- Provides a more appropriate reflection of users of the B2B e-hub within the cost recovery framework. Third party B2B participants will be deemed to be registered participants for the purposes of cost recovery of B2B costs. As a consequence, AEMO may develop a participant fee structure that includes retailers, DNSPs, metering coordinators and/or third party B2B participants.

43 See section 5.5 for further details on cost recovery.

2.5 Strategic priority

The consolidated rule change request relates to the AEMC's strategic priority on providing market and network arrangements that encourage efficient and appropriate investment over time. This strategic priority recognises that new products and services have the potential to benefit small customers, particularly where the products and services offered reflect small customer preferences.

The more preferable final rule is expected to facilitate the provision of new products and services through a small customer's meter by providing efficiencies for businesses communicating with each other with regard to those products and services. These efficiencies may also result in minimised costs for small customers.

3 Information Exchange Committee

Box 3.1 Final rule determination

The final rule changes the membership requirements of the IEC to provide for a more diverse range of parties that are likely to have an interest in B2B communications and the provision of metering services. It includes a combination of industry elected and AEMO appointed members.

The new IEC membership includes:

- an AEMO member (an AEMO director, to be appointed by AEMO);
- one retailer member (elected by retailers and local retailers);
- one DNSP member (elected by DNSPs);
- one metering member (elected by metering coordinators, metering providers and metering data providers);
- up to one third party B2B participant member (elected by third party B2B participants);
- one consumer member (appointed by AEMO); and
- at least two, and up to four, discretionary members (appointed by AEMO). Discretionary members are appointed to represent a class or classes of B2B parties whose interests are not adequately represented on the IEC.

Except in certain limited circumstances, the AEMO member will be the chairperson of the IEC.

In light of the updated membership of the IEC, the final rule makes consequential changes to the quorum and voting requirements of the IEC. It also introduces requirements related to the election and appointment of members and requisite qualifications of members.

3.1 Introduction

This chapter sets out the membership structure and operation of the IEC under the final rule. This includes arrangements related to:

- the membership of the IEC;
- election and appointment of IEC members;
- nomination and voting restrictions for related entities;
- quorum and voting requirements for IEC meetings; and

- processes for amending the IEC election procedures and IEC operating manual.

3.2 Membership

3.2.1 Introduction

Previously the IEC membership included: three DNSP members; three local retailer or market customer members; and two independent members (one acting as the IEC chairperson).

The final rule provides for an expanded and more flexible membership structure that will better reflect the range of parties interested in B2B communications over time.

3.2.2 Proponents' views and first round of consultation

The COAG Energy Council proposed that the IEC be updated to comprise:⁴⁴ an AEMO member (being an AEMO director, who would be the IEC chairperson); two independent members; one DNSP member; one retailer member; one metering member;⁴⁵ up to one third party B2B participant member;⁴⁶ one consumer member;⁴⁷ and up to two discretionary members.

Red and Lumo proposed a more flexible membership structure, but with similar member categories. The IEC would be renamed the Retail Industry Panel and would comprise:⁴⁸ an AEMO member (being an AEMO director, who would be the IEC chairperson); two DNSP members; two retailer members; two metering members;⁴⁹ and up to four discretionary members.⁵⁰

A comparison between the membership structures proposed by the COAG Energy Council and Red and Lumo is set out in the table below.

⁴⁴ COAG Energy Council rule change request, pp. 9-10.

⁴⁵ The metering member would be elected by, and represent, metering coordinators, metering providers and metering data providers.

⁴⁶ A third party B2B participant is elected by, and represents, third party B2B participants. Third party B2B participants are parties that have become accredited to use the B2B e-hub that are not also a DNSP, retailer, local retailer, metering coordinator, metering provider or metering data provider.

⁴⁷ The consumer member would be appointed by AEMO in consultation with ECA to represent small customers (as defined in the competition in metering final rule).

⁴⁸ Red and Lumo rule change request, pp. 8-9.

⁴⁹ The metering members would be elected by, and represent, metering coordinators, metering providers and metering data providers.

⁵⁰ The discretionary representatives may include: up to one consumer member; up to one independent member; up to two third party B2B participant member; and/or any other B2B party required for adequate representation of the industry as decided by 70 per cent of the number of representatives of the Retail Industry Panel. Note that the Red and Lumo proposed rule uses the term 'representative' instead of 'member' to describe the structure of the Retail Industry Panel.

Table 3.1 Comparison of proposed IEC membership structures

COAG Energy Council proposal	Red and Lumo proposal
AEMO member (chairperson of the IEC)	AEMO member (chairperson of the Retail Industry Panel)
1 retailer member	2 retailer members
1 DNSP member	2 DNSP members
1 metering member	2 metering members
Up to 1 third party B2B participant member	Up to 4 discretionary members
2 independent members	
1 consumer member	
Up to 2 discretionary members	
Total: 7- 10 members	Total: 7 - 11 members

Each rule change request sought to create a membership that is broadly representative of the parties that will have an interest in B2B procedures and the services that will be available through a customer's meter in the future. Specifically, the rule proponents consider:

- Metering coordinators, metering providers and metering data providers will become integral to the provision of metering services.
- Parties who are not otherwise registered participants or accredited service providers may enter the market for new advanced metering services.
- Small customers may be more involved in accessing services through advanced meters and therefore more interested in how those services are provided. They may also be interested in the cost impacts of decisions.
- The inclusion of discretionary members and independent members provides some flexibility in the membership. These positions could be used to bring particular desirable expertise into the decision-making process. It also allows the membership to adapt to changing market conditions without the need for a rule change.
- An AEMO director as chairperson would provide some strategic guidance to the group.

Stakeholder submissions in the first round of consultation raised differing views on the ideal membership structure for the body responsible for recommending changes to the B2B procedures.

DNSPs generally supported a modified COAG Energy Council model that included an independent member as the chairperson (instead of the AEMO member) and replaced the two discretionary members with additional retailer and DNSP members.⁵¹ In contrast, retailers generally supported the Red and Lumo model.⁵²

Stakeholders generally supported having two retailer members and two DNSP members on the IEC. Some of the reasons provided by retailers and DNSPs included:⁵³

- it could provide for the diversity of views and experience within those member categories;
- these parties have corporate knowledge of the industry and B2B arrangements;
- DNSPs and retailers are most likely to use B2B processes so are most concerned with efficiency; and
- retailers provide a greater contribution to participant fees.

There was strong support for diversity in experiences and views within the member categories in submissions to the consultation paper. Some stakeholders suggested the retailer members include one large retailer and one small (by market share) or new entrant retailer.⁵⁴ DNSPs proposed that the two DNSP members should be from different jurisdictions.⁵⁵

Some stakeholders also supported having two metering members given the different business types within that category. Metropolis strongly supported including 'smaller' companies on the IEC and suggested one of the metering members should be a competitive metering business (that is, not affiliated with a DNSP).⁵⁶ In contrast, some DNSPs and Energy Consumers Australia (ECA) considered one metering member would be sufficient as these companies are largely engaged by retailers as paid service providers and they do not contribute to costs.⁵⁷

Some retailers noted that four discretionary members provide 'future proofing' and flexibility for the IEC membership.⁵⁸ For example, the Red and Lumo model would allow discretionary members to participate once the class of participants is identified

51 ENA, submission to the consultation paper, p. 3.

52 The exception was AGL who proposed a modified Red and Lumo model. The AGL proposal included a non-voting AEMC member who could provide advice on the intent of the power of choice reforms throughout implementation and only three discretionary members instead of four. AGL, submission to the consultation paper, p. 6.

53 Submissions to the consultation paper: ENA, p. 2; Energex, p. 4; ERM, p. 3; AGL, p. 2.

54 Submissions to the consultation paper: ECA, p. 2; Metropolis, p. 4.

55 Ausgrid, submission to the consultation paper, p. 6.

56 Metropolis, submission to the consultation paper, p. 4.

57 Submissions to the consultation paper: AusNet Services, p. 6; United Energy, Appendix p. 4; ECA, p. 2.

58 Submissions to the consultation paper: EnergyAustralia, p. 2; Simply Energy, p. 2.

by the IEC as being interested and available to be an IEC member.⁵⁹ ECA suggested that the discretionary member category could include independent members, instead of having a separate membership category.⁶⁰ Several stakeholders considered that discretionary members should be appointed by the other members of the IEC instead of AEMO.⁶¹

The inclusion of a consumer member on the IEC was supported by most stakeholders.⁶²

Several stakeholders did not support an AEMO member as the chairperson of the IEC. DNSPs considered an independent member should continue to be the chairperson as they would not have any interest in the decisions. In support of this view, AusNet Services noted that independent members provide "detached, outside skills in negotiating, compromise, wider perspectives and complementary skills." Alternatively, the AEMO chairperson should not have a voting role.⁶³

Other stakeholders strongly supported an AEMO director as chairperson. AGL considered an AEMO chairperson would "better ensure that the strategic interests and objectives of AEMO and the industry group are closely aligned and approved recommendations on B2B procedures are managed and implemented properly." ECA supported an AEMO member as chairperson but noted that an AEMO director cannot make commitments on behalf of AEMO unless specifically authorised. AGL also flagged that the AEMC should consider any conflicts of interest of the AEMO member, given the dual capacity as both the IEC chairperson and as an AEMO director.⁶⁴

More generally, several stakeholders commented that the IEC should not be too large and it may be necessary to restrict the numbers of existing member categories.⁶⁵

With regard to the Red and Lumo proposal to change the name of the IEC to the Retail Industry Panel, several stakeholders disagreed. They expressed concern that the proposed name would not reflect the wide industry membership of the group.⁶⁶ AGL suggested another alternative name: the Retail Communications Panel.⁶⁷

⁵⁹ ERM, submission to the consultation paper, p. 3.

⁶⁰ ECA, submission to the consultation paper, p. 2.

⁶¹ Submissions to the consultation paper: AGL, p. 3; United Energy, Appendix p. 5; AusNet Services, p. 6.

⁶² The exception was AGL, which did not consider that small customers would be interested in back-end systems and processes related to business communications. AGL, submission to the consultation paper, p. 3.

⁶³ AusNet Services, submission to the consultation paper, p. 5.

⁶⁴ Submissions to the consultation paper: AGL, p. 2; ECA, p. 2.

⁶⁵ Submissions to the consultation paper: EDMI, p. 2; ECA, p. 2.

⁶⁶ Submissions to the consultation paper: Vector, p. 3; Ergon, p. 4.

⁶⁷ AGL, submission to the consultation paper, p. 4.

3.2.3 Draft rule determination and second round of consultation

Under the draft rule the IEC membership included:

- one AEMO member (an AEMO director, who would be the chairperson);
- one retailer member;
- one DNSP member;
- one metering member;
- one third party B2B participant member;
- one consumer member; and
- at least two and up to four discretionary members.

Under the draft rule, the discretionary members would be appointed to represent a class or classes of parties that have an interest in B2B procedures but in AEMO's reasonable opinion are not adequately represented on the IEC.

In submissions to the draft rule determination, retailers and DNSPs raised concerns that there may only be one retailer member and one DNSP member. In their view, the IEC membership under the draft rule did not provide adequate representation for existing market participants. In particular, they were concerned that there was no guarantee that AEMO would appoint an additional retailer or DNSP as discretionary members.⁶⁸ Some retailers considered it preferable that the IEC include two members per category, even if that resulted in two similar members being elected in each of those categories.⁶⁹

Some retailers and DNSPs claimed that they should have additional members on the IEC as they have obligations to provide certain services that impact the majority of retail customers.⁷⁰ United Energy was concerned that, if no retailers or DNSPs were appointed as discretionary members, there could be as few as two IEC members with direct involvement with delivering transactions at volume for mass market customers.⁷¹ Some retailers and DNSPs also claimed that there would be benefits from having two retailer and DNSP members on the IEC:

⁶⁸ Submissions to the draft rule determination: AGL, p. 3; EnergyAustralia, p. 2; Ergon Retail, p. 1; ERM, p. 3; Origin, p. 3; Ausgrid, p. 2; Energex, p. 5; ENA, p. 1; Ergon Energy, p. 4; United Energy, p. 7

⁶⁹ Submissions to the draft rule determination: AEC, p. 2; EnergyAustralia, p. 2; ERM, p. 3; Origin, p. 3.

⁷⁰ Submissions to the draft rule determination: Origin, p. 3; ENA, p. 1.

⁷¹ United Energy, submission to the draft rule determination, p. 8.

- The two members within a category can share the workload in updating and consulting with other businesses.⁷²
- It would provide for temporary absences for one of the members.⁷³
- It reduces the risk of a stakeholder being unable to share their position with their IEC member.⁷⁴
- The retailer and DNSP members would support the most cost effective options.⁷⁵

In light of these views, retailers proposed that the IEC membership should include: one AEMO member (a director and IEC chairperson); two retailer members; two DNSP members; two metering members; one third party B2B participant; one consumer member; and two discretionary members.⁷⁶

Active Stream, Red and Lumo considered that ideally there would be two metering members on the IEC to represent the very different types of businesses within that membership category.⁷⁷

However, Metropolis supported the IEC membership structure under the draft rule, noting that some of the alternatives put forward are "likely to reduce diversity and representation on the IEC, compared with the draft determination".⁷⁸

There were few comments on the other membership positions. Metropolis, Red and Lumo noted their support for the AEMO member. In particular, Metropolis considered it "sets a clear signal as to the level of skill and experience required for IEC members and provides a strong alignment between AEMO and the IEC".⁷⁹ However, other stakeholders were concerned that AEMO would influence outcomes given its multiple roles with the IEC: the chairperson; responsibility for appointing certain members; providing resources; and making IT changes.⁸⁰ Some retailers noted their support for the consumer member⁸¹ and the third party B2B participant member.⁸² Red and Lumo suggested that the consumer member should be optional (like the third party B2B participant member) in case a suitable member cannot be found.⁸³

⁷² ERM, submission to the draft rule determination, p. 3.

⁷³ Energex, submission to the draft rule determination, p. 5.

⁷⁴ ERM, submission to the draft rule determination, p. 3.

⁷⁵ Ausgrid, submission to the draft rule determination, p. 2.

⁷⁶ Submissions to the draft rule determination: AGL, p. 3; AEC, p. 1; EnergyAustralia, p. 2; ERM, p. 3. Red and Lumo proposed a slightly different model that included two third party B2B participants. Red and Lumo, submission to the draft rule determination, p. 4.

⁷⁷ Submissions to the draft rule determination: Active Stream, p. 1; Red and Lumo, p. 4.

⁷⁸ Metropolis, submission to the draft rule determination, p. 2.

⁷⁹ Submissions to the draft rule determination: Metropolis, p. 3; Red and Lumo, p. 3.

⁸⁰ Submissions to the draft rule determination: AGL, p. 3; EnergyAustralia, p. 3; Ergon Energy, p. 4.

⁸¹ Submissions to the draft rule determination: EnergyAustralia, p. 2; ERM, p. 4; Red and Lumo, p. 4.

⁸² Submissions to the draft rule determination: EnergyAustralia, p. 2; ERM, p. 4.

⁸³ Red and Lumo, submission to the draft rule determination, p. 4.

3.2.4 Commission's analysis and conclusions

As articulated by the proponents, recent changes to Chapter 7 of the NER under the competition in metering and embedded networks final rules mean that a wider range of parties are likely to be interested in B2B communications. These interested parties would now include metering coordinators, new third party service providers in the market and potentially consumers. In addition, new parties such as embedded network managers may wish to communicate within the B2B framework.⁸⁴

The final rule is largely consistent with the draft rule with regard to the IEC membership structure. It established the IEC membership as: an AEMO member (as chairperson of the IEC); one retailer member; one DNSP member; one metering member; up to one third party B2B participant member; one consumer member; and at least two, and up to four, discretionary members. The final rule includes changes to the draft rule definition of discretionary members to provide for a more certain and narrower scope of parties that the discretionary members may be appointed to represent.

Each of these member categories is discussed below.

AEMO member

The final rule requires the AEMO member to be a director of AEMO. This person will be the chairperson of the IEC.⁸⁵ This arrangement is similar to the Reliability Panel, which has an AEMC Commissioner as the chairperson. The panel has been considered successful, in part, because of these arrangements. In a similar way, as chairperson of the IEC, the AEMO director would be able to provide strategic guidance and focus to IEC decision making, which will remain subject to member voting. This is consistent with the proposed and draft rules.

The Commission considers that an AEMO director will have wide ranging industry experience that will enable them to consider and inform the IEC of the interests of any party not directly represented on the IEC, such as potential new entrants. The AEMO director may also be able to advise the IEC on developments within the sector generally as well as opportunities for synergies with other AEMO workstreams. In addition, the inclusion of an AEMO member on the IEC allows direct AEMO input on the interactions between B2B procedures, MSATS procedures, procedures related to the minimum services specification (as part of the new competition in metering framework), the B2B e-hub and AEMO's budget processes. This may improve the administrative efficiencies of IEC recommendations in relation to the B2B procedures.

⁸⁴ Under the embedded networks final rule, the embedded network manager will provide market interface functions (such as obtaining a NMI) for customers within the embedded network wishing to go on-market.

⁸⁵ Final rule, clauses 7.17.6(d) and 7.17.10(c). If the AEMO member is unable to act as chairperson at a meeting of the IEC as a result of having a material conflict of interest in the matter to be determined by the IEC, then another member of the IEC may be chosen by the IEC to act as chairperson for that matter. See clause 7.17.6(e) of the final rule.

In addition to including an AEMO member on the IEC, AEMO would have a role in developing the initial IEC election procedures and IEC operating manual (see Chapter 6 on implementation). It may also be the IEC secretariat; it would consult with the IEC on conflicts with MSATS procedures and implementation costs; and it would have a limited veto power over IEC recommendations (see sections 4.3 and 4.5). Some stakeholders have raised concerns that there is a perceived or actual conflict of interest with AEMO undertaking multiple roles.⁸⁶ However, the Commission considers that such conflicts are unlikely to arise and can be properly managed. In addition, the risk of such conflicts occurring would be outweighed by the benefits that may be achieved from including an AEMO member on the IEC.

DNISP member

The DNISP member would represent DNISPs. The election and requisite qualifications of the DNISP member is discussed at section 3.3.4. Including a DNISP member on the IEC is consistent with the proposed rules.

Retailers and DNISPs considered there should be two DNISP representatives. The Commission considers it preferable that there be one DNISP member on the IEC and any further DNISP representatives on the IEC occur by way of a discretionary member, as determined by AEMO (see section 3.3). This will provide for a flexible IEC membership that facilitates a diverse range of industry participants with complementary expertise. See the discussion below on the discretionary member position.

Retailer member

Under the final rule, the retailer member replaces the existing 'local retailer and market customer member' under the previous B2B arrangements. The Commission considers the new retailer member role to better reflect the parties that would be impacted by B2B procedures.⁸⁷ In particular, there are now many retailers that are not local retailers as a result of retail competition. In addition, there are market customers that are not retailers, such as aluminium smelters and other large users that are not likely to be impacted by B2B procedures. This is consistent with B2B communications being more likely to relate to connection points for small customers.⁸⁸ Large customers are more likely to arrange alternative services that suit their specific needs and, as a result, would generally not need representation on the IEC. However, to the extent that a large user was interested, it could still participate in IEC decision making as a third

⁸⁶ For example, there may be a perceived conflict if AEMO decided to exercise its veto power over an IEC recommendation, as the AEMO chairperson would have been involved in making that IEC recommendation.

⁸⁷ A retailer is defined as a party that holds a retailer authorisation or, in the case of participating jurisdictions that have not introduced the NECF, a person who is registered by AEMO as a customer who engages in the activity of selling electricity to end users. See the new definition of 'retailer member' in the final rule. Also see definition of retailer in Chapter 10 of the previous NER.

⁸⁸ Small customers will have new and replacement meters that must meet the minimum services specification and under the final rule the B2B procedures must have B2B communications that support the services in the minimum services specification.

party B2B participant member or a discretionary member if it were eligible and elected or appointed into one of those positions. If a large user was a third party B2B participant, it would be also be involved in the nomination and election of IEC members.

Including a retailer member on the IEC is consistent with the proposed rules. Retailers and DNSPs considered there should be two retailer representatives. However, the Commission considers it preferable that there be one retailer member on the IEC and any further retailer representatives on the IEC occur by way of a discretionary member, as determined by AEMO (see section 3.3). This will provide for a flexible IEC membership that facilitates a diverse range of industry participants with complementary expertise. See the discussion below on the discretionary member position.

Metering member

The final rule introduces a new metering member to the IEC. This member would represent the interests of metering coordinators, metering providers and metering data providers. It is appropriate that the interests of these service providers are represented on the IEC given they will be integral to the provision of metering services for small customer connection points. Although there are potentially different business models and regulatory requirements between these types of businesses, it is expected that they will work closely together to provide metering services under the final rule for competition in metering.

Including a metering member on the IEC is consistent with the proposed rules. Certain stakeholders considered there should be two metering representatives. However, the Commission considers it preferable that there be one metering member on the IEC and any further metering representatives on the IEC occur by way of a discretionary member, as determined by AEMO (see section 3.3). This will provide for a flexible IEC membership that facilitates a diverse range of industry participants with complementary expertise. See the discussion below on the discretionary member position.

Third party B2B participant member

Third party B2B participants, being B2B e-hub participants⁸⁹ that are not also DNSPs, retailers, local retailers, metering coordinators, metering providers or metering data providers, will also be represented on the IEC by the third party B2B participant member. This IEC member would represent the interests of third party B2B participants who will be providing new services that are enabled by advanced meters. This could include a wide range of businesses providing innovative services that are not yet envisaged (that is, parties that are not otherwise registered participants or

⁸⁹ B2B e-hub participants are parties that are accredited with AEMO to use the B2B e-hub. See section 5.4.

accredited service providers under the NER). It will also include embedded network managers to the extent they use the B2B e-hub.⁹⁰

Including a third party B2B participant member on the IEC is consistent with the COAG Energy Council proposed rule. Under the Red and Lumo proposed rule, a representative for third party B2B participants could be appointed as a discretionary member.

Consumer member

The consumer member would represent the interests of small customers of electricity.⁹¹ The Commission anticipates that small customers may be impacted by B2B procedures as some may wish to benefit from services enabled by advanced meters, such as data or load control services. Small customers may also be impacted by the way in which DNSPs or retailers use advanced metering services at their connection point. In addition, any cost impact of recommendations by the IEC is likely to affect small customers' electricity prices or the cost of services provided by third parties. For these reasons, it is important to include a consumer representative on the IEC to allow direct input on these decisions. This is more preferable than relying on the retailer member to address such concerns. The consumer member is also likely to have valuable insights into which new services a significant proportion of small customers are likely to value and should therefore be supported by the B2B procedures.

Including a consumer member on the IEC is consistent with the COAG Energy Council proposed rule. Under the Red and Lumo proposed rule, a representative for small customers could be appointed as a discretionary member.

Discretionary members

The final rule provides for AEMO to appoint at least two, and up to four, discretionary members.⁹² This provides a degree of flexibility in membership and enables the IEC to reflect the parties with an interest in and relevant expertise regarding B2B procedures over time.

There must be at least two discretionary members appointed to the IEC, bringing the minimum number of IEC members to seven. If this were not required, there could be as few as five IEC members. The Commission considers it appropriate that at least two discretionary members are included in the IEC to provide more diversity and expertise in the IEC to inform the decision-making process.

The Commission notes that many stakeholders would prefer the IEC to include two retailer members, two DNSP members and two metering members. In the first round

⁹⁰ If an embedded network manager becomes accredited as a B2B e-hub participant to use the B2B e-hub, it would be a third party B2B participant provided it is not also a B2B e-hub participant in respect of another category (such as a metering coordinator). Accreditation is discussed at section 5.4.

⁹¹ Final rule, clauses 7.17.8(d) and 7.17.11(d)(2)(ii).

⁹² Final rule, clause 7.17.10(d).

of submissions, stakeholders commented that the two members from each category should represent different business types or sizes. For example:

- the two retailer members should include a 'small retailer' and a 'large retailer';
- the two DNSP members should include DNSPs from different jurisdictions; and
- the two metering members should include different business types, to make sure a mix of metering coordinators, metering providers and metering data providers from competitive as well as 'regulated' businesses are included.

In the second round of submissions, some stakeholders noted that they would prefer to have two elected members in each of the categories. They considered that this would provide greater certainty than relying on a second representative for their industry group being appointed as a discretionary member.

The Commission considers it important that the IEC membership include a diverse range of industry participants with complementary expertise, and that the appointment of discretionary members is the most effective and efficient way to achieve this. The Commission considered the proposals of stakeholders, but has concluded that:

- having two members from each category elected by industry may result in two members with similar expertise being elected to the IEC. This would not achieve the preferred level of diversity or flexibility in IEC membership going forward; and
- specifying subcategories within each of the member categories (such as a large retailer and a small retailer) becomes legally and administratively complex and is not flexible to changing market conditions.

The final rule allows between two and four discretionary members to be appointed to the IEC. These members would be appointed to represent a class of B2B parties that are not adequately represented on the IEC.

In the draft rule determination, discretionary members were required to represent a class or classes of parties that have an interest in B2B procedures but are not adequately represented on the IEC. This has been changed in the final rule determination to provide that discretionary members are to be appointed to represent a class or classes of B2B parties. The Commission considers 'B2B parties' to be a more certain and narrower category of parties in respect of which AEMO may appoint a discretionary member. B2B parties includes all of the parties that are required to comply with B2B procedures, while 'parties that have an interest in B2B procedures' (which was the criteria used under the draft rule) may include someone that is interested in the B2B procedures but does not necessarily have to comply with those procedures. The Commission considers it appropriate that the IEC members represent parties that must comply with the B2B procedures as these are parties primarily affected by IEC decisions.

The discretionary positions would be used to fill in the gaps in experience of IEC members following election of the industry members. This could result in an additional member that represents certain categories of DNSPs, retailers or metering businesses, to bring in members with different market experience onto the IEC. Over time, if the nature or makeup of the market changes significantly, it may be more appropriate that one or more of the discretionary member positions be used to include different types of parties as they become more prevalent in the market. This arrangement provides flexibility to the IEC membership over time, without the need to use a rule change process.

Some stakeholders were concerned that the IEC may lose experience and corporate knowledge by reducing the number of DNSP and retailer members. However, the IEC is expected to be a more strategic group. Individuals with technical expertise on B2B issues could contribute to the development of B2B procedures through IEC working groups and/or the formal consultation process.

AEMO established a 'transitional IEC' in early June 2016. AEMO has stated that the transitional IEC would enable it to "consult with interested parties on the operations manual and election procedures, commence preliminary discussions on the business requirements for an expanded B2B, IT options for the B2B e-hub and enable interested parties to consider nomination for the new body in preparation for the publication of the final rule".⁹³ AEMO considered this approach would allow for early consideration of these issues to facilitate implementation of the final rule.

The 'transitional IEC' was formed having regard to the IEC membership requirements set out in the draft rule. However, it is not a body that is required to be formed under, or otherwise recognised by, the NER or NEL. The Commission understands that the transitional IEC will cease to operate on or before 1 September 2016, once the new IEC is formed.

In forming its transitional IEC, AEMO sought expressions of interest from industry in order to fill the membership positions for this interim group including the discretionary members. AEMO appointed three discretionary members: an additional retailer; an additional DNSP; and an additional metering business through this consultative process.

Independent members

The final rule does not include independent members on the IEC, as proposed by the proponents and supported by some stakeholders in the first round of submissions.⁹⁴ Under the previous arrangements, one of the independent members was the

⁹³ AEMO, submission to the draft rule determination, p. 4.

⁹⁴ The COAG Energy Council proposed the inclusion of two independent members on the IEC and Red and Lumo proposed that independent members could be included as a subset of the discretionary member category. Under the proposed rules, independent members would be nominated and elected by B2B parties (DNSPs, retailers, local retailers, metering coordinators, metering providers, metering data providers and third party B2B participants) and would be required to be independent of those parties.

chairperson of the IEC and both of the independent members provided an independent view compared to the retailer and DNSP members.⁹⁵ As the final rule provides that the new IEC include an AEMO chairperson and broader industry representation, the need for independent members on the IEC is significantly reduced. The Commission considers that it is appropriate to have additional discretionary members on the IEC instead of independent members.

Renaming the IEC

The final rule does not include a change to the name of the IEC as there does not appear to be wide stakeholder support or an identified need at this time. The new names proposed by Red and Lumo and AGL (Retail Industry Panel and Retail Communications Panel, respectively) appear to be similar to the names of AEMO working groups such as the Retail Market Consultative Forum which have a broad scope to discuss work related to retail markets. These suggested names were interpreted by some stakeholders as focussing on the views of retailers.

3.3 Election and appointment of IEC members

3.3.1 Introduction

Previously the NER included very little prescription about the election of IEC members. Instead, these requirements were set out in the IEC election procedures, which included: the nomination and voting process; requisite qualifications of IEC members; certain processes in relation to amending the IEC election procedures; and requirements related to the term, removal and resignation of members.⁹⁶

This section sets out the proponents' views, stakeholder views and Commission's final rule determination and rationale in relation to:

- the election or appointment of IEC members;
- restrictions on nomination and voting for related entities; and
- requisite qualifications of IEC members.

3.3.2 Proponents' views and first round of consultation

The following table summarises the proponents' views on the election and appointment of the IEC members.⁹⁷

⁹⁵ Under the previous IEC election procedures, the independent members were nominated and elected by DNSPs, local retailers and market customers and were required to be independent of these parties.

⁹⁶ Under the previous NER, the IEC election procedures could be amended from time-to-time in accordance with clause 7.2A.2. The IEC election procedures are available on the AEMO website.

⁹⁷ COAG Energy Council proposed rule, clause 7.17.10; Red and Lumo proposed rule, clause 7.17.10.

Table 3.2 Comparison of proposed election or appointment of members

Member category	COAG Energy Council proposal	Red and Lumo proposal
AEMO member	Appointed by AEMO	Appointed by AEMO
Retailer member	Elected by retailers and local retailers	Appointed by retailers and local retailers ⁽¹⁾
DNISP member	Elected by DNISPs	Appointed by DNISPs ⁽¹⁾
Metering member	Elected by metering coordinators, metering providers and metering data providers	Appointed by metering coordinators, metering providers and metering data providers ⁽¹⁾
Discretionary member	Appointed by AEMO, in consultation with the independent members and any other person determined by AEMO	Retail Industry Panel decides whether a discretionary membership position should be included. Once decided, the discretionary member would be either elected or appointed (depending on the relevant category of member). ⁽²⁾
Consumer member	Appointed by AEMO, in consultation with ECA	Appointed by AEMO, in consultation with ECA ⁽²⁾
Third party B2B participant member	Elected by third party B2B participants	Appointed by third party B2B participants ⁽¹⁾⁽²⁾
Independent member	Elected by B2B parties	Elected by B2B parties ⁽²⁾
B2B party	n/a	Appointed by the relevant class of B2B parties that would be represented by the discretionary member position ⁽²⁾

(1) The Red and Lumo proposed rule refers to both the appointment and election of the retailer members, DNISP members, metering members and third party B2B participant members at different points in the proposed rule.

(2) Under the Red and Lumo proposed rule, the discretionary member position may include a consumer member, third party B2B participant member, independent member or any other B2B party.

The proponents have suggested introducing restrictions on who can nominate and vote for certain membership positions:⁹⁸

- **Within a member category:** for example:
 - if a party is registered in two or more of the categories of metering coordinator, metering provider and metering data provider, it would only be able to nominate and vote once for the metering member;

⁹⁸ COAG Energy Council proposed rule, clauses 7.17.10 (j) to (k); Red and Lumo proposed rule, clauses 7.17.10 (g) to (i).

- if a party is both a retailer and local retailer, it may only nominate and vote once in respect of the retailer member; and
 - if two or more parties are related bodies corporate⁹⁹ and belong to the same voter category (for example, each of the related bodies corporate would be able to vote on the retailer member or metering member or DNSP member or third party B2B participant member), then only one of the related bodies corporate may nominate and vote in respect of the relevant member category.
- **Across member categories:** Red and Lumo have also proposed nomination restrictions for related bodies corporate that would prohibit them from nominating in multiple IEC member categories. For example, if a party is both a retailer and a metering coordinator, it may only nominate to be the IEC member in respect of one member category.

These proposals are intended to address concerns that related bodies corporate could use their voting power to secure one or more membership positions and, in turn, exercise significant influence over the IEC decision making process.

The proposed rules also included requisite qualifications of members in the NER. While the wording differs slightly between the two proposed rules, each places obligations on the party responsible for the election or appointment of members so that the person nominated or appointed:¹⁰⁰

- has knowledge and experience of the NEM;
- has experience with and skills in considering issues that affect the category of persons they are being elected or appointed to represent;
- has knowledge of the subject matter of B2B procedures;
- has knowledge and understanding of the NER and related legislative and regulatory framework;
- in the case of independent members, is independent of B2B parties; and
- in the case of discretionary members, is independent of AEMO.¹⁰¹

COAG Energy Council has defined being 'independent' of a person as:¹⁰²

- “• not being an employee or director of that person;

⁹⁹ Under Chapter 10 of the previous NER, a 'related body corporate' is as defined in the *Corporations Act 2001 (Cth)* (Corporations Act). Related bodies corporate include a holding company and its subsidiaries, or two or more companies that are subsidiaries of the same holding company.

¹⁰⁰ COAG Energy Council proposed rule, clause 7.17.11; Red and Lumo proposed rule, clause 7.17.11.

¹⁰¹ COAG Energy Council proposed rule, clause 7.17.11(d)(5).

¹⁰² COAG Energy Council proposed rule, clause 7.17.11(a). Red and Lumo proposed a similar definition of independence within its definition of an 'independent representative' of the IEC.

- not being:
 - an employee of, or a partner in, any partnership; or
 - an employee of, or a director of, any company;

which partnership or company is an adviser or consultant to that person, where such relationship is a significant source of income of that partnership or company; or

- not being an adviser or consultant to that person, where such relationship is a significant source of income for that adviser or consultant.”

Stakeholder submissions in the first round of consultation provided some specific suggestions relating to the appointment and election of IEC members:

- Origin suggested that industry bodies could be involved in the nomination process;¹⁰³
- ECA proposed that nominees for an IEC member position should be endorsed by its CEO to ensure the nominee is supported by the organisation and can contribute to strategic discussions within the IEC.¹⁰⁴

Several stakeholders considered it important that IEC members be elected or appointed by industry stakeholders where possible.¹⁰⁵

ECA provided some alternative views to the role of IEC members. It noted that there is currently a requirement in the IEC operating manual that the person selected will canvas the opinion of the sector they represent concerning the items of business to be discussed at each IEC meeting. However, ECA considered IEC members should be elected because of 'the expertise they bring to the IEC, not to be the voice of a sectoral group'.¹⁰⁶

With regard to restrictions on nomination and voting, some retailers and the Competitive Energy Association (CEA, now the Australian Energy Council) supported the Red and Lumo proposal to include restrictions between member categories.¹⁰⁷ However, AGL and Active Stream did not agree with these restrictions, as:

- metering companies have separate operations, resources and services compared to their parent companies; and

¹⁰³ Origin, submission to consultation paper, p. 2.

¹⁰⁴ ECA, submission to the consultation paper, p. 2.

¹⁰⁵ Submissions to the consultation paper: Simply, p. 2; United Energy, Appendix p. 6.

¹⁰⁶ ECA, submission to the consultation paper, p. 2. See section 10 of the previous IEC operating manual.

¹⁰⁷ CEA, submission to the consultation paper, p. 2.

- most metering companies are associated with either a retailer or DNSP, so restricting these parties from participation would result in very few people being eligible.¹⁰⁸

Metropolis noted that each DNSP will be acting as an initial metering coordinator following the commencement of the competition in metering final rule. In addition, DNSPs may be acting as accredited metering providers and metering data providers. It raised concerns with the potential voting power of DNSPs in the metering category that may preclude a 'competitive' metering company from being elected to the IEC.¹⁰⁹

3.3.3 Draft rule determination and second round of consultation

The draft rule elevated into the NER and modified certain requirements from the IEC election procedures. This included some of the requirements for the election of IEC members and requisite qualifications of IEC members. Requirements for the election and appointment of IEC members in the draft rule were as follows:

Table 3.3 Draft rule election or appointment of IEC members

IEC member	Election or appointment requirements
AEMO member	A director, appointed by AEMO
Retailer member	Elected by retailers and local retailers
DNSP member	Elected by DNSPs
Metering member	Elected by metering coordinators, metering providers and metering data providers
Third party B2B participant member	Elected by third party B2B participants when there is at least one third party B2B participant and that party has nominated a person for election as a third party B2B participant member of the IEC
Consumer member	Appointed by AEMO in consultation with Energy Consumers Australia
Discretionary members	Appointed by AEMO to represent a class or classes of persons who have an interest in B2B procedures but are not adequately represented on the IEC. AEMO may consult with anyone in making the appointment.

The draft rule included knowledge requirements for IEC members similar to the knowledge and experience requirements outlined in the previous IEC election procedures. The draft rule also required B2B parties to ensure the person they nominate as an IEC member meets the following requirements, and AEMO must

¹⁰⁸ Submissions to the consultation paper: AGL, p. 3; Active Stream, p. 2.

¹⁰⁹ Metropolis, submission to the consultation paper, p. 3.

ensure that the discretionary members or consumer member it appoints meet the following requirements:

- has knowledge and experience of the NEM;
- has experience with and skills in considering issues that affect the category of persons they are being elected or appointed to represent;
- has knowledge of the subject matter of B2B procedures;
- has knowledge and understanding of the NER and related legislative and regulatory frameworks; and
- in the case of discretionary members, is independent of AEMO.¹¹⁰

The draft rule also introduced restrictions around nomination and voting to prevent related bodies corporate from exercising more than one vote in respect of a member category. However, it did not prevent related bodies corporate from nominating and being elected to the IEC in different member categories, as recommended by Red and Lumo.

Submissions to the draft rule determination generally commented on AEMO's appointment of the discretionary IEC members.

A number of retailers and DNSPs considered that the discretionary members should not be appointed by AEMO.¹¹¹ The alternatives put forward by stakeholders included:

- that the IEC agree on a discretionary membership position and then AEMO would appoint an appropriate member in consultation with the class of participants to be represented by that member;¹¹²
- that the IEC agree on a discretionary membership position and then a member is nominated and elected by the class of participant to be represented by that member;¹¹³
- that the IEC be responsible for appointing discretionary members (noting that the IEC would include an AEMO member).¹¹⁴

In contrast, Metropolis considered that discretionary members should not be appointed by the IEC. It considered that this would not be appropriate and may

¹¹⁰ Draft rule, clauses 7.17.11(c)-(d). The definition of 'independent' was set out in clause 7.17.11 of the draft rule and was consistent with the definition proposed by the COAG Energy Council, set out in section 3.3.2 above.

¹¹¹ Submissions to the draft rule determination: AGL, p. 3; AEC, p. 1; EnergyAustralia, p. 2; ERM, p. 4; United Energy, p. 8; Red and Lumo, pp. 4-5.

¹¹² Submissions to the draft rule determination: AGL, p. 3; United Energy, p. 8.

¹¹³ Red and Lumo, submission to the draft rule determination, p. 4.

¹¹⁴ Submissions to the draft rule determination: EnergyAustralia, p. 3; ERM, p. 4.

increase the majority of an already existing strong voting bloc, while allowing AEMO to appoint the unrepresented groups achieves the intended outcomes.¹¹⁵

There were also suggestions related to the criteria for appointing a discretionary member:

- Some stakeholders considered there should be more onerous requirements on AEMO with regard to consultation, for example that AEMO should be required to consult with the relevant group of stakeholders.¹¹⁶
- Ausgrid suggested that the NER include some guidance for appointing discretionary members, such as considering proportionality, the diversity of each member class, and the relative costs faced by each party resulting from decisions made by the IEC.¹¹⁷
- AGL suggested that there should be clearer direction on which industry classes should be considered as priority over the initial years of the new framework introduced under the competition in metering final rule.¹¹⁸

AEMO supported the draft rule, however it was concerned with stakeholder suggestions to require certain parties to be appointed as discretionary members. AEMO considered that this would not be consistent with the purpose of discretionary appointments.¹¹⁹ AEMO made some suggestions with regard to the election of IEC members:¹²⁰

- There should be "an obligation on participants to ensure that any vote is consistent with the Corporations Act 2001 (Cth) and to declare any related bodies corporate to AEMO while voting to ensure that only one vote is received from the related bodies". AEMO did not consider it should be its responsibility to ensure compliance.
- There should be a requirement for IEC nominees to be from executive leadership positions within the representative organisation (except the consumer member). This would ensure IEC members are of an appropriate level to engage in strategic discussions.

Red and Lumo maintained its view that related bodies corporate should not be able to nominate in multiple IEC member categories. It was concerned that "should one entity obtain more than one member position on the IEC they will be able to use it to their advantage (to the detriment of other participants)". Red and Lumo noted that the draft

115 Metropolis, submission to the draft rule determination, p. 2.

116 Submissions to the draft rule determination: AGL, p. 4; ENA, pp. 2-3; Ergon Energy, p. 4; Metropolis, p. 2.

117 Ausgrid, submission to the draft rule determination, p. 2.

118 AGL, submission to the draft rule determination, p. 4.

119 AEMO, submission to the draft rule determination, p. 3.

120 AEMO, submission to the draft rule determination, p. 4.

rule did not prevent related bodies corporate from being elected to positions in different membership categories and suggested that, "in order to provide ability for participants to understand the ramifications of their vote the Commission may consider whether there are open and transparent voting processes included in the IEC election procedures".¹²¹

3.3.4 Commission's analysis and conclusions

Election and appointment of IEC members

The final rule is consistent with the draft rule in respect of the election and appointment requirements.

The final rule elevates into the NER and modifies certain requirements around the nomination and voting process from the IEC election procedures, which provides greater certainty and clarity of the election process. The nomination and voting requirements set out in the final rule are an important feature of the overall framework. As the final rule includes a wider membership structure than the previous NER, it is desirable to support this by introducing provisions in the NER detailing the relevant requirements for each of the members.

In the early years of the new IEC there may be no or few third party B2B participants. To manage this possible situation, the final rule provides that a third party B2B participant member need only be elected to the IEC once there is at least one B2B e-hub participant accredited with AEMO who is a third party B2B participant and that party has nominated a person for election as a third party B2B participant member of the IEC.¹²² While third party B2B participants may be smaller businesses that may not have resources to be an IEC member themselves, a suitable representative outside of their business could be elected to the position. The IEC may address the potential resourcing issues by making the requirements in the IEC election procedures and operating manual conducive to smaller IEC representatives.

In addition to the possibility that there may be no third party B2B participant, there may be no registered metering coordinators when the new IEC is initially formed.¹²³ As a result, the first metering member would be elected by accredited metering providers and metering data providers. The IEC election procedures could, but are not required to, provide a trigger for re-election once metering coordinators are registered as registered participants. This would have the advantage of including these parties in the election process for the metering member. Alternatively, a discretionary member with metering coordinator experience could be appointed to the IEC, if considered necessary.

¹²¹ Red and Lumo, submission to the draft rule determination, p. 5.

¹²² Final rule, clause 7.17.6(b)(6). This was proposed by the proponents (see clause 7.17.6(b)(1)(vii) of each of the proposed rules) and supported by United Energy on Appendix p. 5 of its submission to the consultation paper.

¹²³ See the implementation timeframes set out in Chapter 6.

The consumer member is appointed by AEMO in consultation with ECA.¹²⁴ ECA has been selected for this task because it is a national energy consumer advocacy body on national energy market matters of strategic importance and material consequence for energy consumers, in particular household and small business customers. This is consistent with the proposals put forward by the proponents.

The Commission considers it preferable that the consumer member is appointed by AEMO in consultation with ECA, instead of ECA nominating a consumer member. This provides a more flexible approach to the selection of a consumer member of the IEC and is consistent with the process for AEMO's appointment of the discretionary members. ECA may put suitable candidates forward to AEMO through the consultation process.

As noted in section 3.2.4, the final rule provides for at least two and up to four discretionary IEC members to be appointed by AEMO. In appointing the discretionary members, AEMO must consider which B2B parties are not already adequately represented on the IEC. The final rule requires that discretionary members must be independent of AEMO.¹²⁵

Some stakeholders strongly preferred that IEC members generally be elected by industry where possible. However, the appointment of the discretionary members by AEMO is a mechanism designed to provide some confidence that the IEC will be broadly representative of parties interested in B2B communications. It also provides for the IEC to draw on wide ranging and relevant experience (see the discussion at section 3.2.4 above).

In appointing the discretionary members, the final rule allows AEMO to consult with any party it considers appropriate. For example, if AEMO decides to appoint a discretionary IEC member to represent the interests of embedded network managers, AEMO may decide to consult with embedded network managers prior to appointing that IEC discretionary member.

The Commission considers it appropriate that consultation with regard to the discretionary appointments be a matter for AEMO to decide. It is also appropriate that any consultation that is carried out be in a form that is fit for the relevant circumstances. It is not intended that a particular form of consultation be carried out as a matter of course, nor that the rules consultation procedures be followed.

This arrangement in the final rule acknowledges that in some circumstances it may not be necessary to undergo consultation and a requirement to do so may be onerous. In these circumstances, consultation may add unnecessarily to the appointment timeframes and administrative processes of AEMO and the IEC and not provide a net benefit. Such a situation may arise, for example, if a group of B2B parties whose

¹²⁴ Final rule, clause 7.17.10(b). ECA was established by the COAG Energy Council in January 2015. See www.energyconsumersaustralia.com.au.

¹²⁵ Final rule, clauses 7.17.10(d) and 7.17.11(d)(5).

interests are not already represented on the IEC approach AEMO seeking the appointment of a discretionary member.

Requisite qualifications

The final rule is consistent with the draft rule in respect of the qualifications of IEC members.¹²⁶

Certain qualification requirements for IEC members have been introduced under the final rule to provide greater certainty and clarity of the qualifications of members. The Commission considers this is an important feature of the overall framework and facilitates decision-making by the IEC.

The intention of this requirement is to ensure that IEC members have, at a minimum, certain knowledge and experience in matters relevant to B2B communications. It is not necessary that each member be an expert in each of these areas. Voters would need to be satisfied that the person they are nominating and electing meets the requirements. It is not the responsibility of the IEC secretariat, the IEC, or AEMO to ensure the candidates meet the knowledge requirements.

This aspect of the final rule supports the intention that the new IEC will be a strategic group, with working groups set up to carry out detailed technical work. While it is important that each of the IEC members is able to understand their recommendations and the implications, it is also important that they have complementary expertise and are able to engage in robust discussion on how the B2B procedures can be developed in a way that satisfies the relevant legal tests for changes to the B2B procedures (see section 4.4) while having a view to the broader market developments and issues.

Restrictions on nomination and voting

The final rule is largely consistent with the draft rule in respect of restrictions on nominating and voting on IEC members, with the exception of the introduction of additional requirements in respect of 'related entities' (as detailed below) to ensure such restrictions capture partnership and trust arrangements.

The proponents and some stakeholders raised concerns that if multiple related bodies corporate¹²⁷ are registered in an IEC voter category then it would be possible for them to use multiple votes to elect their preferred candidate to the IEC. This may then affect the effectiveness of IEC decision-making, as the elected members may not represent the majority of voters within that category. This has not been a significant issue under the previous arrangements given there are three retailer member positions and three DNSP member positions on the IEC.

In assessing this issue there are a number of scenarios to consider:

¹²⁶ Final rule, clause 7.17.11.

¹²⁷ Related bodies corporate under the Corporations Act include a holding company and its subsidiaries, or two or more companies that are subsidiaries of the same holding company.

- Some parties entitled to vote for an IEC member will have multiple related bodies corporate or consist of entities that are otherwise related (such as a body corporate and a partnership being related by virtue of one controlling the other) within a voter category (such as AGL's retail businesses in each state and territory).
- Other parties may have one corporate entity with multiple accreditations within a voter category (such as Metropolis as both a metering provider and metering data provider).
- Also, a retailer may be both a retailer and a local retailer.

To manage such scenarios, the final rule prevents related bodies corporate¹²⁸ and 'related entities' from exercising potential voting power in these situations by providing that they only have one vote (collectively) within their member category.¹²⁹ This will prevent related bodies corporate and 'related entities' from being able to vote multiple times for the one IEC member category. For the purpose of the final rule:

- 'Related entities' consist of entities that are related by virtue of one entity controlling, or being controlled by, the other entity.¹³⁰
- An 'entity' may comprise of a body corporate, partnership, individual or unincorporated body.¹³¹
- An entity will 'control' another entity if the entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.¹³²

The introduction of the restriction on related entities (which did not form part of the nomination and voting restrictions under the draft rule) has been included to ensure such restrictions capture partnership and trust arrangements.

Metropolis raised concerns with the voting power of 'initial metering coordinators' within the metering member category, given DNSPs will have an 'initial metering

¹²⁸ See definition of related bodies corporate in Chapter 10 of the NER.

¹²⁹ Final rule, clauses 7.17.10(i)-(j).

¹³⁰ Final rule, clause 7.17.10(k). Under that clause, 'related entities' means, in relation to an entity, an entity that controls, or is controlled by, that first mentioned entity.

¹³¹ Final rule, clause 7.17.10(k). Under that clause, 'entity' has the meaning given in the Corporations Act, which includes a body corporate, partnership, trustee or trustees of a trust, unincorporated body or individual

¹³² Final rule, clause 7.17.10(k). Under that clause, 'control' has the meaning given in the Corporations Act. Under s. 50AA of the Corporations Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies. In determining whether the first entity has this capacity: (a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and (b) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

coordinator' business.¹³³ The final rule does not exclude these parties from nomination and voting for the metering member. This type of participant is a recognised industry participant and parties in this category are expected to hold relevant industry knowledge. For this reason, it is appropriate to allow these parties to participate in IEC matters. However, 'initial metering coordinators' are expected to phase out over time. In addition, should an 'initial metering coordinator' be elected to the IEC as the metering member, AEMO could appoint a party to represent metering coordinators who are not 'initial metering coordinators' as a discretionary member to broaden the expertise and skills brought to the IEC.

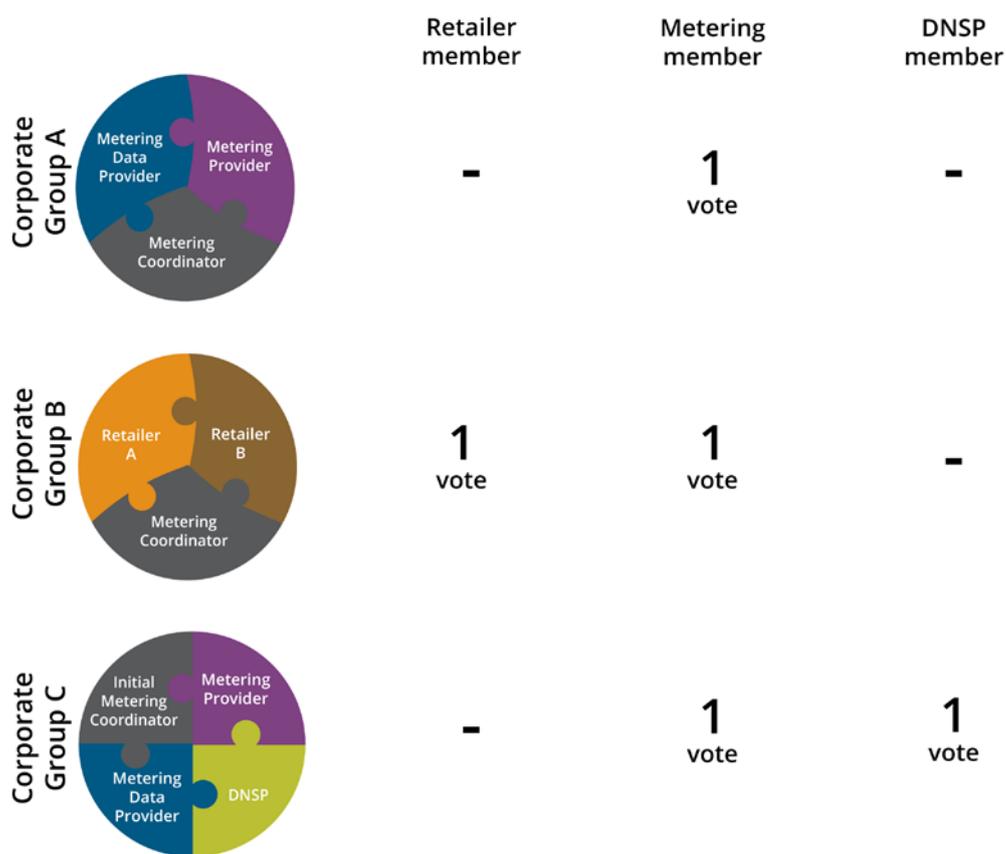
Another scenario to consider is where related bodies corporate or related entities are operating across two or more IEC member categories, such as Energex's DNSP business and its metering provider and metering data provider business (Metering Dynamics). While the COAG Energy Council did not propose a nomination and voting restriction for related bodies corporate or related entities in this situation, Red and Lumo sought to restrict such entities from being elected to the IEC in different categories.

The final rule does not prevent related bodies corporate or related entities from nominating and being elected to the IEC in different member categories. If the related bodies corporate or related entities are elected to be the IEC member in each of their respective IEC member categories, they have each been elected by the eligible voters in each of those IEC member categories as the preferred representative. The appointment of discretionary members will provide an opportunity to establish greater diversity across the IEC membership if required.

Figure 3.1 below provides examples of three different corporate groups and their voting arrangements under the final rule.

¹³³ An 'initial metering coordinator' is a local network service provider that was the responsible person for a type 5 or 6 metering installation. Under the competition in metering final rule, these parties are appointed as the Metering Coordinator at that connection point on 1 December 2017. See the competition in metering final rule, clause 11.86.7.

Figure 3.1 Examples of final rule voting arrangements



3.4 Meetings

3.4.1 Introduction

This section sets out the proponents' views, stakeholder views and Commission's final rule determination and rationale in relation to:

- quorum for IEC meetings;
- voting on IEC decisions;
- changing the IEC election procedures and IEC operating manual;
- conflicts of interest; and
- appointment of alternates.

3.4.2 Proponents' views and first round of consultation

The proponents have proposed slightly different quorum requirements for IEC meetings. This is partly due to the different numbers of IEC members under each of the rule change requests:

- The COAG Energy Council has proposed that the quorum would be five members if there are less than nine IEC members and six members if there are nine or more IEC members.
- Red and Lumo have proposed that the quorum would be five if there are less than eight IEC members or seven members if there are nine or more members.

In each rule change request, the attendance of the AEMO member (as chairperson) is required for quorum to be satisfied.¹³⁴

This is summarised as follows:

Table 3.4 Comparison of proposed quorum for IEC meetings

Number of IEC members	7	8	9	10	11
Quorum - COAG Energy Council	5	5	6	6	-
Quorum - Red and Lumo	5	5	7	7	7

With regard to the number of IEC members that must agree in order to make certain IEC decisions, both proponents have proposed the introduction of super majorities (70 per cent of members, rounded up to the next whole number) and ordinary majorities (60 per cent of members, rounded up to the next whole number). IEC decisions related to the IEC works program, making an IEC recommendation and not recommending a change to B2B procedures would require a super majority. Other IEC decisions would require an ordinary majority.¹³⁵

The proponents also proposed changes to the NER regarding the IEC election procedures and IEC operating manual to change the way in which industry votes on amendments to these documents.¹³⁶

- The COAG Energy Council has proposed that amending the election procedures or operating manual would require the support of at least 75 per cent of voters in at least three of the voter categories for: the DNSP member; the retailer member; the metering member; and the third party B2B participant member.
- Red and Lumo proposed that an amendment would require the support of at least 75 per cent of voters in each of the voter categories for: the DNSP member; the retailer member; and the metering member.

¹³⁴ COAG Energy Council proposed rule, clause 7.17.9(b); Red and Lumo proposed rule, clause 7.17.9(b).

¹³⁵ COAG Energy Council proposed rule, clause 7.17.9(c); Red and Lumo proposed rule, clause 7.17.9(c). Under the Red and Lumo proposed rule, a decision to 'amend the discretionary members' would also require a super majority.

¹³⁶ COAG Energy Council proposed rule, clause 7.17.12; Red and Lumo proposed rule, clause 7.17.12.

Conflicts of interest would be dealt with by requiring IEC members to not take part in any decision where they have a material conflict of interest in that decision. A conflict would be material if it detracts from the capacity of the member to exercise independent judgment in respect of the relevant decision. However, IEC members would be able to take into account the interests of the participants they represent.¹³⁷ The COAG Energy Council requested that the AEMC consider whether the wording 'independent judgment' in its proposed rule should be defined differently to provide better guidance around conflict of interest issues.¹³⁸

In the first round of consultation there were few stakeholder comments on the proposed arrangements for IEC meetings. United Energy suggested that the quorum for meeting should be six (if there are less than nine IEC members) or seven (if there are nine or more IEC members). This would need to include the chairperson (an independent member), one DNSP and one retailer.¹³⁹

United Energy also suggested that each IEC member should nominate an alternate because this would avoid quorum issues and facilitate meetings.¹⁴⁰

While AGL supported an AEMO member as chairperson for the IEC, it was concerned that conflicts of interest may arise. It also commented that in its view, an AEMO director would be obliged to make decisions in the interest of AEMO.¹⁴¹

3.4.3 Draft rule determination and second round of consultation

The following table provides an overview of the IEC quorum and voting requirements in the draft rule.

Table 3.5 Draft rule IEC quorum and voting requirements

Number of IEC members	7	8	9	10
Quorum	5	5	6	6
Votes required for a recommendation to change the B2B procedures or IEC works program	5	6	7	7
Votes required for other IEC decisions	5	5	6	6

Under the draft rule, IEC members would be prevented from taking part in an IEC decision if they had a material conflict of interest in that decision. The draft rule specified that a conflict would be material if it detracts, or would reasonably be

¹³⁷ COAG Energy Council proposed rule, clause 7.17.8; Red and Lumo proposed rule, clause 7.17.8.

¹³⁸ COAG Energy Council rule change request, p. 11.

¹³⁹ United Energy, submission to the consultation paper, Appendix p. 6.

¹⁴⁰ *ibid.*

¹⁴¹ AGL, submission to the consultation paper, p. 2.

considered to be likely to detract, from that member's capacity to exercise independent judgment in respect of the relevant decision.¹⁴² Given IEC members may have an interest in certain decisions (as it potentially affects their organisation), the draft rule maintained the previous ability for IEC members, including the AEMO member, to consider the interests of their relevant representative group.¹⁴³

Should the AEMO member be conflicted in regard to a particular IEC decision, the draft rule allowed another existing IEC member, with the support of an ordinary majority of members, to act as chairperson for such matters.¹⁴⁴

There were few stakeholder submissions on these issues in the second round of consultation. Origin and Red and Lumo supported the draft rule voting (and quorum) requirements and Origin supported the ability to replace the chairperson where the AEMO member has a conflict of interest.¹⁴⁵

AEMO and AGL sought clarification on whether IEC members may have alternates where there is a personal conflict of interest. They considered that this would avoid a situation where no person in that membership class would be able to vote.¹⁴⁶ AEMO raised some concerns with another IEC member acting as chairperson and suggested that the alternate for its IEC member could be from the AEMO executive team.¹⁴⁷

3.4.4 Commission's analysis and conclusions

The final rule is consistent with the draft rule with regard to: quorum and voting requirements; the process for changing the IEC election procedures and operating manual; and requirements where an IEC member has a conflict of interest. However, the final rule differs from the draft rule in that it clarifies that IEC members may appoint alternates, subject to certain requirements.

Quorum and voting

As discussed above, under the final rule there may be between seven and ten members of the IEC. The variation in the number of members arises because there may be no third party B2B participant member initially and AEMO must appoint two, and may appoint up to four, discretionary members.

Previously, quorum for the IEC was five (out of eight) members. If this approximate proportion of quorum to total members is maintained, it results in a quorum of five (out of seven or eight) members or six (out of nine or ten) members, as proposed by the COAG Energy Council. Although United Energy proposed a slightly higher quorum, the Commission does not wish to create an unnecessary barrier to holding meetings.

¹⁴² Draft rule, clauses 7.17.8(a)(5)-(b).

¹⁴³ Draft rule, clauses 7.17.8(c)-(f).

¹⁴⁴ Draft rule, clauses 7.17.6(e) and 7.17.9(b).

¹⁴⁵ Submissions to the draft rule determination: Origin, p. 3; Red and Lumo, p. 6.

¹⁴⁶ AGL, submission to the draft rule determination, p. 5.

¹⁴⁷ AEMO, submission to the draft rule determination, p. 3.

The final rule is consistent with the COAG Energy Council proposed rule. It provides an approach that is similar to the previous arrangements as this has been suitable for the IEC.¹⁴⁸

With regard to which IEC members must be present at meetings, the Commission does not consider that any particular member must be present, apart from the AEMO member (or their alternate) as chairperson. The IEC will include broad representation of parties interested in B2B procedures and as long as there is quorum, the meeting should be able to proceed. However, the final rule provides that the AEMO member is not required to satisfy quorum requirements if they are unable to attend due to a conflict of interest.¹⁴⁹

The previous NER also set out the number of members that must support particular IEC decisions for those decisions to be validly made. Again, the final rule adopts proportions similar to the previous requirements to manage the variability in the number of IEC members that may arise. This is also consistent with the proposed rules. As a result, a decision of the IEC to recommend a change to the B2B procedures or the approval of an IEC works program¹⁵⁰ would require the support of at least 70 per cent of IEC members. Any other decision of the IEC would require the support of at least 60 per cent of members.¹⁵¹

Conflicts of interest

Under the final rule, IEC members must not take part in an IEC decision if they have a material conflict of interest in the matter to be decided by the IEC. A conflict will be material if it detracts, or would reasonably be considered to be likely to detract, from that member's capacity to exercise independent judgment in respect of the relevant decision.¹⁵²

Previously, IEC members were able to take into account the interests of the parties or groups of parties they represented.¹⁵³ This is still relevant because it is likely that all IEC members would have some interest in decisions. In general, IEC members are likely to work for a business that will be affected by IEC decisions. In addition, the qualification requirements for IEC members means they are likely to work in the industry. The final rule maintains and extends the right for IEC member, including the AEMO member, to consider the interests of their relevant representative group.¹⁵⁴

148 Final rule, clause 7.17.9(b).

149 *ibid.*

150 This is the work program prepared by the IEC in respect of the development, implementation and operation of the B2B procedures and other matters which are incidental to effective and efficient B2B communications.

151 Final rule, clause 7.17.9(c). The final rule does not contemplate a threshold for changes to discretionary members as suggested by Red and Lumo as the final rule does not provide for the IEC to appoint these parties.

152 Final rule, clauses 7.17.8(a)(5) and (b).

153 Previous NER, clauses 7.2A.2(o)-(p).

154 Final rule, clauses 7.17.8(c)-(f).

As a consequence, an IEC member would not be conflicted if an IEC decision affects their business or the businesses of the industry members it was elected or appointed to represent. However, if that member has a personal interest in the outcome of an IEC decision they would be conflicted.

Whether a conflict of interest is material will also depend on the circumstances. The process for managing and providing supporting guidance on what particular circumstances may give rise to a conflict of interest is best provided in the IEC operating manual.

It is possible that the conflict of interest provisions may result in the AEMO member not being able to attend, or act as chairperson, for certain decisions of the IEC. If the AEMO chairperson is required to leave the meeting, and the AEMO alternate is not available or is also conflicted, the IEC would no longer have a chairperson. Should this occur, the final rule provides that another existing IEC member, with the support of an ordinary majority of members, may act as chairperson for such decisions.¹⁵⁵

Alternates

Under the final rule, each IEC member may appoint an alternate subject to:¹⁵⁶

- appointment of an alternate (except an AEMO member alternate) is subject to approval by ordinary majority of the IEC;
- the alternate must meet any requisite qualifications that are applicable to the member appointing that alternate; and
- an AEMO member alternate must also be a director of AEMO.

Where an IEC member is unable to attend an IEC meeting, their alternate may attend and vote at meetings of the IEC and otherwise exercise all the powers, and must perform all the duties, of that member.

The Commission considers that IEC members should be able to appoint suitable alternates. This avoids a situation where a particular industry point of view would be missing from IEC deliberations where that particular IEC member is unable to attend a planned meeting due to a conflict of interest or otherwise.

However, the Commission considers that there should be suitable requirements to establish that alternates are able to contribute to IEC discussions and decisions in a meaningful way. For this reason, the final rule requires alternates to meet the requisite qualifications of the relevant IEC member. In the case of the AEMO member, this includes being an AEMO director. The appointment of alternates is subject to approval of an ordinary majority of the IEC.¹⁵⁷ The exception is the AEMO member, which is

¹⁵⁵ Final rule, clauses 7.17.6(e) and 7.17.9(b). Under the final rule, additional processes related to managing material conflicts of interest may be set out in the IEC operating manual.

¹⁵⁶ Final rule, clauses 7.17.6(h) and (i).

¹⁵⁷ As this is an 'other IEC decision' it falls within clause 7.17.9(c)(4) of the final rule.

required to be another AEMO director and therefore IEC approval of that alternate is not necessary.

The final rule is silent on how an IEC member selects an appropriate alternate. There is nothing to prevent an IEC member from consulting with the parties they represent, with other IEC members, or with AEMO prior to selecting an alternate. The Commission acknowledges that alternates, being selected by the relevant IEC member, may not necessarily have the wider support of the relevant stakeholders. However, the requirement that alternates must be approved by the IEC provides a check that they meet the requisite qualifications. Further requirements around alternates may be outlined in the IEC operating manual.

If the AEMO member is unable to attend a meeting (due to unavailability or conflict of interest reasons) the AEMO alternate may act as chairperson. If that person is also conflicted with regard to a particular decision, the IEC may elect another existing IEC member to act as chairperson with regard to that IEC decision (see above).

4 Making B2B procedures

Box 4.1 Final rule determination

The final rule provides that the B2B procedures must, in addition to the content requirements previously set out in the NER, provide for B2B communications to support each of the services in the minimum services specification. The IEC may recommend the inclusion of other B2B communications in accordance with the process set out in the final rule.

The final rule allows any party (other than the IEC) to propose a change to B2B procedures. It sets out requirements for the IEC's process in developing recommendations to change the B2B procedures. This now includes the IEC consulting with AEMO on the changes required to the B2B e-hub in order to implement the proposed change and the potential costs of implementation.

When developing recommendations to AEMO to change the B2B procedures, the IEC must have regard to the NEO and the new B2B factors. It must also seek to give effect to the B2B principles. The new B2B factors are:

- the reasonable costs of compliance by AEMO and B2B parties with the B2B procedures compared with the likely benefits from B2B communications;
- the likely impacts on innovation in, and barriers to entry to, the market for services facilitated by advanced meters resulting from changing the existing B2B procedures; and
- the implementation timeframe reasonably necessary for AEMO and B2B parties¹⁵⁸ to implement systems or other changes required to be compliant with any change to existing B2B procedures.

The final rule simplifies the B2B decision making process and clarifies the respective roles of AEMO and the IEC. The grounds on which AEMO may veto an IEC recommendation to change B2B procedures have been narrowed to where there is a conflict with MSATS procedures.

The final rule also extends the decisions that may be reviewed under the dispute resolution provisions in Chapter 8 of the NER. An IEC decision to not recommend a B2B procedure change may now be reviewed under dispute resolution arrangements under rule 8.2A, in addition to an IEC recommendation to change the B2B procedures and AEMO's decision to approve (or not approve) an IEC recommendation. Dispute resolution will be accessible by B2B parties and the party that proposed the relevant change to B2B procedures that have been adversely affected by the decision.

¹⁵⁸ 'B2B parties' includes DNSPs, retailers, local retailers, metering coordinators, metering providers, metering data providers, embedded network managers and other third party B2B participants.

4.1 Introduction

This chapter sets out the Commission's final rule determination in relation to the process for making and amending B2B procedures. This includes issues related to:

- the content requirements for B2B procedures;
- the process for the IEC to develop a recommendation to change the B2B procedures;
- the criteria for making an IEC recommendation (namely the NEO, B2B factors and B2B principles);
- AEMO's role in the B2B framework; and
- dispute resolution.

4.2 Content of B2B procedures

4.2.1 Introduction

The content requirements for B2B procedures were previously set out in clause 7.2A.4 of the NER. This required the B2B procedures to include certain types of information for each B2B communication. B2B communications were defined as "communications between local retailers, market customers and DNSPs relating to an end user or supply to an end user provided for in B2B procedures."¹⁵⁹

A key issue was that the rules regarding the B2B framework did not include communications related to metering coordinators, metering providers and metering data providers.

In addition, there was no guarantee that the B2B procedures would provide for communications that support the services in the minimum services specification under the new framework for metering services being introduced by the competition in metering final rule. It may be important that these services are supported by B2B procedures going forward because the competition in metering final rule will result in the installation of new meters for small customers that are capable of providing the services in the minimum services specification (subject to certain exceptions).¹⁶⁰ These services are expected to be the most widely used services facilitated through advanced meters at small customer connection points.

¹⁵⁹ Previous NER, Chapter 10.

¹⁶⁰ See Appendix C1 in the competition in metering final rule determination for a full explanation of the minimum services specification and under what circumstances metering installations at small customer connection points must meet the minimum services specification.

4.2.2 Proponents' views and first round of consultation

The proponents considered the content requirements for B2B procedures set out in clause 7.2A.4 of the NER should be expanded to include B2B communications to support each of the services set out in the minimum services specification in Schedule 7.5 of the competition in metering final rule. In addition, B2B procedures would be able to provide for other B2B communications determined in accordance with the NER.¹⁶¹

The proponents considered that B2B procedures should be able to include performance requirements for the B2B e-hub. This is because the communications that will be supported through the B2B e-hub may require 'near instant' delivery times and the performance of the B2B e-hub may be vital for the delivery of these communications. The proponents also suggested that the B2B procedures must allow for parties to communicate outside the B2B e-hub. However, if parties use an alternative to the B2B e-hub they should still be required comply with any B2B procedures relevant to the B2B communications being communicated.¹⁶²

Under the proposed rules, the definition of B2B communications was amended to include all the parties who may have an interest in providing or receiving services related to a small customer's meter. This would enable the B2B framework to support communications among the new parties emerging in the electricity market that will provide services to other market participants and end users.

In the first round of consultation, stakeholders were primarily concerned with the list of services that would be supported through B2B communications in the B2B procedures:

- DNSPs considered that, to support the competition in metering and embedded networks final rules (commencing on 1 December 2017), the B2B procedures must include B2B communications to support more than the services in the minimum services specification:
 - In particular, Ausgrid considered that load control services should be supported as these services are widely used.¹⁶³
 - AusNet Services considered the vital processes that should be supported through B2B communications are: de-energisation and re-energisation; new connections and site configurations; meter churn; retailer isolation for

¹⁶¹ COAG Energy Council proposed rule, clause 7.17.3(a); Red and Lumo proposed rule, clause 7.17.3(a).

¹⁶² COAG Energy Council rule change request, pp. 11-13; Red and Lumo rule change request, pp. 11-13.

¹⁶³ Ausgrid, submission to the consultation paper, p. 4. Ausgrid considered that if load control is not included in B2B procedures, DNSPs will have to negotiate multiple bespoke agreements and may choose not to offer the services.

metering work; failed meter processes including meter fault based customer outages; and life support.¹⁶⁴

- Vector commented that metering providers and metering data providers will increasingly perform site visits (instead of DNSPs) so will need access to certain services.¹⁶⁵
- Ausgrid considered the B2B procedures should include functionality to prioritise and coordinate services, for example, in an emergency situation.¹⁶⁶

4.2.3 Draft rule determination and second round of consultation

The draft rule included a new requirement that B2B procedures must provide for B2B communications to support each of the services in the minimum services specification.¹⁶⁷ This was designed to enable these services to be provided more efficiently, as there would be a standard form of communication for providing or accessing these services.

The draft rule did not specify that the B2B procedures must include B2B communications that support services beyond the minimum services specification, but it enabled the B2B procedures to include these types of B2B communications.¹⁶⁸

In the second round of consultation Origin and Red and Lumo noted their support for the draft rule.¹⁶⁹ However, some stakeholders did not consider the B2B procedures should be required to support the services in the minimum services specification. In particular, they considered that these services should not be prioritised over existing services in the development of new B2B procedures.¹⁷⁰ These implementation issues are discussed further in Chapter 6.

4.2.4 Commission's analysis and conclusions

The final rule is consistent with the draft rule in respect of the content requirements for B2B procedures.

Under the competition in metering final rule, all new and replacement metering installations at small customer connection points will need to be capable of providing the services in the minimum services specification (subject to certain limited exceptions). These services are defined under the final rule for competition in metering

¹⁶⁴ AusNet Services, submission to the consultation paper, p. 8.

¹⁶⁵ Vector, submission to the consultation paper, p. 2.

¹⁶⁶ Ausgrid, submission to the consultation paper, p. 7.

¹⁶⁷ Draft rule, clause 7.17.3(a)(1).

¹⁶⁸ Draft rule, clause 7.17.3(a)(3).

¹⁶⁹ Submissions to the draft rule determination: Origin, p. 3; Red and Lumo, p. 6.

¹⁷⁰ Submissions to the draft rule determination: AGL, p. 4; EnergyAustralia, p. 4; Ergon Retail, p. 1; ENA, p. 7; United Energy, pp. 6, 8.

and AEMO is required to develop procedures that set out standards for the provision of those services.¹⁷¹ The services that are in the minimum services specification are expected to be the most widely used advanced metering services.¹⁷²

The Commission notes that there are a number of other communications that are expected to be widely used, including many of the existing B2B communications. While it may be beneficial to provide these communications in a standard form, the IEC is the most appropriate body to determine which of these communications should be supported in B2B procedures, and defining those communications, through the B2B procedure making process. These arrangements are preferable to introducing additional content requirements for the B2B procedures in the NER that would set out all relevant services that must be supported by B2B communications.

The content of the B2B procedures is discussed further in section 6.5 on the transitional arrangements.

4.3 Process for making an IEC recommendation

4.3.1 Introduction

The process for changing B2B procedures was previously contained in clause 7.2A.3 of the NER. Broadly, it set out:

- who may propose a change to B2B procedures;
- the IEC's initial consideration of the proposal and preparation of consultation documents (including seeking AEMO's advice on whether the proposal may conflict with MSATS procedures);
- the process for consulting on the B2B proposal, including a requirement to follow the rules consultation procedures; and
- requirements for the IEC to prepare a draft report for consultation and a final report.

Clause 7.2A.3 of the previous NER also set out the decision making criteria and AEMO's role in the decision making process. These are discussed below at sections 4.4 and 4.5 respectively.

4.3.2 Proponents' views and first round of consultation

The proponents considered the process for making an IEC recommendation should be amended to improve accessibility and ensure the correct participants are involved in the consultation process. The proposals included:

¹⁷¹ Competition in metering final rule, Schedule 7.5 and clause 11.86.6.

¹⁷² See Appendix C1 in the competition in metering final rule determination for a full explanation of the minimum services specification.

- Any party should be able to propose a change to B2B procedures.¹⁷³
- The IEC should seek AEMO's advice on the changes that would be required to the B2B e-hub as a consequence of the B2B procedure change and the likely costs involved, for inclusion in the B2B procedure change pack.¹⁷⁴
- The list of parties that must be notified of a consultation process for a B2B procedure change should be expanded.¹⁷⁵
- The IEC should consult with AEMO on impacts of the proposal with all retail market procedures, not only MSATS procedures.¹⁷⁶
- Removing the requirement for the IEC to decide within 25 business days whether a proposed B2B procedure change process is warranted.¹⁷⁷

In addition, both proponents suggested changes to the NER in their proposed rule that were not explained in detail in their rule change request. For example, Red and Lumo proposed a number of changes to the existing provisions that provide for greater consistency with the procedure change process under clause 7.16.7 of the competition in metering final rule.¹⁷⁸ These other suggestions are addressed in Appendix A.

In response to the proposed changes, United Energy did not agree that the B2B procedures should be required to be consistent with all retail market procedures. It considered the coverage of retail market procedures is very broad and so long as MSATS procedures are not impacted, the IEC should be able to make recommendations on the B2B procedures on slightly different or inconsistent arrangements.¹⁷⁹

There were also suggestions that AEMO should be required to publish reasons for approving or not approving an IEC recommendation and the IEC should be able to re-consider a proposal that has been vetoed by AEMO. It was suggested that the inclusion of these requirements would improve transparency and accountability of the assessment against the decision making criteria.¹⁸⁰

173 COAG Energy Council proposed rule, clause 7.17.4(f); Red and Lumo proposed rule, clause 7.17.4(a).

174 COAG Energy Council rule change request, p. 13; Red and Lumo rule change request, p. 12.

175 COAG Energy Council proposed rule, clause 7.17.4(j).

176 Red and Lumo proposed rule, clause 7.17.4(c)(1)(i). Retail market procedures are the procedures developed by AEMO under Chapter 7 of the NER. Currently this includes metrology procedures, service level procedures, meter churn procedures and MSATS procedures.

177 Red and Lumo proposed rule, clause 7.17.4(b).

178 Red and Lumo proposed rule, clause 7.17.4. Clause 7.16.7 of the competition in metering final rule sets out the process for AEMO to amend other procedures under Chapter 7 of the NER.

179 United Energy, submission to the consultation paper, Appendix, p. 8.

180 Submissions to the consultation paper: AGL, p. 4; Active Stream; p. 2. Note that AEMO was previously required to publish reasons for vetoing an IEC decision. See clause 7.2A.3(o) of the previous NER.

4.3.3 Draft rule determination and second round of consultation

The draft rule allowed any party (other than the IEC) to propose a change to the B2B procedures.¹⁸¹ The Commission considered the IEC should not be able to initiate a B2B procedure change process as it is preferable that the IEC be able to bring an open mind to the consideration of any proposed change.

The draft rule included a requirement for the IEC to seek AEMO's advice on the likely changes that would be required to the B2B e-hub as a consequence of the procedure change and the likely costs involved, for inclusion in the consultation documents.¹⁸² This would enable stakeholders to consider and provide submissions on the likely costs of the proposal. This is appropriate as these parties may ultimately pay for upgrades to the B2B e-hub through participant fees.

The draft rule required that B2B parties, B2B change parties, AEMO and any other person who has identified themselves to the IEC as interested in B2B procedures, must be notified of a consultation process to change the B2B procedures.¹⁸³ The Commission considered it would be important that all such parties be notified of a B2B procedure change process. This was expected to facilitate participation by all of the parties that would be affected by the B2B procedure and improve the quality of decisions related to making changes to the B2B procedures.

Some stakeholders generally supported the procedure making process in the draft rule.¹⁸⁴ However, some stakeholders raised specific issues:

- Red and Lumo re-iterated their view that the B2B procedure making process should be consistent with AEMO's process for making other procedures under Chapter 7 of the NER. They considered that this would improve efficiency and reduce confusion related to having two different processes.¹⁸⁵
- AEMO raised concerns with the IEC being required to hold a meeting within 25 business days to consider whether, on a prima facie basis, a proposal to change the B2B procedures is warranted. It considered that it may be difficult for IEC members to meet within those timeframes, as they are likely to be company executives or directors. AEMO suggested that the prima facie decision could be delegated to the IEC chairperson or decided out of session.¹⁸⁶
- Red and Lumo suggested that the NER allow AEMO to provide advice on whether there are conflicts with retail market procedures other than MSATS procedures. They considered that this would provide IEC comfort that they are

181 Draft rule, clause 7.17.4(f).

182 Draft rule, clause 7.17.4(i)(2)(ii).

183 Draft rule, clause 7.17.4(j). B2B change parties are parties (other than B2B parties) that have proposed a change to the B2B procedure, discussed in section 4.6.4.

184 Submissions to the draft rule determination: Origin, p. 4; Metropolis, p. 3.

185 Red and Lumo, submission to the draft rule determination, p. 6.

186 AEMO, submission to the draft rule determination, pp. 3-4.

not creating uncertainty or ambiguity in an already complex regulatory environment.¹⁸⁷

4.3.4 Commission's analysis and conclusions

The final rule is largely consistent with the draft rule in respect to: who may propose a change to the B2B procedures; the process for consulting on the B2B proposal; and requirements to prepare a draft and final report. However, the requirements for considering a B2B proposal have changed. In the final rule the IEC must decide whether, on a prima facie basis, a proposal to change the B2B procedures is warranted as soon as practicable after receiving the proposal.

Proposing changes to B2B procedures

Previously, B2B procedures prescribed content of, the processes for, and the information to be provided to support, communications between local retailers, market customers and DNSPs that relate to an end user or supply to an end user. Given the nature of the previous B2B arrangements, it was appropriate that only AEMO and these participants could propose changes to B2B procedures.

Under the final rule, a greater range of parties will be required to comply with the B2B procedures, such as metering coordinators, embedded network managers and third party B2B participants (see section 5.3). As these parties will be required to comply with B2B procedures, it is appropriate that these parties should be able to propose changes to the B2B procedures.

In addition, new parties in the market that are not yet using the B2B e-hub may wish to propose a change to the B2B procedures. This could enable such parties to request the IEC consider the introduction of a new B2B communication in the B2B procedures to support a particular service prior to becoming an accredited B2B e-hub participant.¹⁸⁸ Allowing parties that are not otherwise B2B parties to propose changes to the B2B procedures may support innovation in the provision of new services and also potentially lower barriers to entry for these participants.

Requirements for considering a B2B proposal

Previously, the IEC was required to meet within 25 business days to consider whether, on a prima facie basis, a proposal to change the B2B procedures is warranted.

The benefit of this requirement is that the procedure change proponent becomes aware of the outcome relatively quickly and, if the IEC decides to proceed with the procedure change process, it (through the working groups and secretariat) can begin working on the B2B procedure change pack.

¹⁸⁷ Red and Lumo, submission to the draft rule determination, p. 6.

¹⁸⁸ The accredited B2B e-hub participant role is discussed in section 5.4.

However, there are some issues with the time limit that warrants a more flexible approach. The new IEC is likely to include members that are company executives or directors. It may be beneficial for the IEC to have additional flexibility in this stage of the process to streamline its workload and to better manage the time of its members. While the final rule does not prevent the IEC operating manual from providing for alternative forms of meeting, such as electronically, if a large number of proposals are received it may be onerous to require IEC members to meet within 25 business days.

To address this issue and provide the IEC with greater administrative flexibility, the final rule requires the IEC to consider whether, on a prima facie basis, a proposal to change the B2B procedures is warranted 'as soon as practicable' after receiving the proposal. This gives the IEC flexibility to consider the B2B procedure change proposal at its next scheduled meeting, if that is the earliest practicable date to consider the proposal. Under the final rule, meetings must occur at least every three months. It also does not prevent the IEC from considering a B2B procedure change proposal more quickly and in a form of meeting that is suitable (as permitted by the IEC operating manual).

Advice from AEMO on conflicts with retail market procedures

Red and Lumo proposed that the IEC should be required to seek AEMO's advice on any potential inconsistencies between a B2B change proposal and the retail market procedures.¹⁸⁹

The Commission considers there is a distinction between MSATS procedures and the other retail market procedures that warrants different treatment with respect to whether they must be consistent with B2B procedures.

While the scope of MSATS procedures and B2B procedures and the systems which support them differ, a conflict between MSATS procedures and B2B procedures could impact on the settlement process. For this reason, it is important that the potential interaction between a proposed B2B procedure change and the MSATS procedures be considered.

Some of the other retail market procedures also have interactions with B2B procedures. For example, metrology procedures set out requirements for metering providers that involve making updates in MSATS, with communications likely to be sent through the B2B e-hub. When the procedures relating to the minimum services specification commence, they are likely to include requirements on the provision of services that would affect metering providers and metering data providers. Again, it is likely that these communications would be sent through the B2B e-hub.

¹⁸⁹ The retail market procedures are a broad group of procedures made by AEMO under Chapter 7 of the NER. This group includes procedures on MSATS, metrology, meter churn and service levels for metering providers and metering data providers. As a consequence of the competition in metering final rule, procedures on the minimum services specification and emergency management will also be created during 2016-2017. See competition in metering final rule, clause 11.86.6(b).

The B2B decision making framework provides for industry to develop communications to support its business needs. This includes where participants have obligations under other retail market procedures. Industry stakeholders are able to propose changes to B2B procedures to include new B2B communications that support their obligations in the market.

The Commission considers that it is appropriate for the IEC to continue to have the discretion to consider any potential conflicts between the B2B procedures and the other retail market procedures.

Should the IEC wish to seek AEMO's advice on any potential conflicts between the B2B procedures and the other retail market procedures then it should do so. There is nothing to prevent this from occurring. It is not necessary for the NER to specifically provide for this.

For these reasons, the final rule maintains the requirement for the IEC to seek AEMO's advice on potential conflicts with MSATS procedures.¹⁹⁰ This is consistent with the previous arrangements and the COAG Energy Council proposed rule.

4.4 B2B factors and B2B principles

4.4.1 Introduction

Previously, each IEC member was required to have regard to the B2B objective and B2B principles in exercising any right, power or discretion under the B2B arrangements.¹⁹¹ In addition, when making decision about B2B procedures, the IEC was required to seek to achieve the B2B objective and, in seeking to achieve the B2B objective, have regard to the B2B principles.¹⁹²

The B2B objective stated that:¹⁹³

“the benefits from B2B communications to local retailers, market customers and distribution network service providers as a whole should outweigh the detriments to local retailers, market customers and distribution network service providers as a whole.”

The B2B principles were that the B2B procedures should:

- provide a uniform approach to B2B communications in participating jurisdictions in which there are no franchise customers;¹⁹⁴

¹⁹⁰ Final rule, clause 7.17.4(i)(2)(i).

¹⁹¹ Previous NER, clause 7.2A.2(n).

¹⁹² Previous NER, clause 7.2A.3(j).

¹⁹³ Previous NER, 'B2B objective', Chapter 10.

¹⁹⁴ A franchise customer is a customer that must purchase electricity from its local retailer as retail competition does not apply.

- detail operational and procedural matters and technical requirements that result in efficient, effective and reliable B2B communications;
- avoid unreasonable discrimination between local retailers, market customers and distribution network service providers; and
- protect the confidentiality of commercially sensitive information.

These considerations do not directly take into account issues related to advanced services and new entrants in a competitive market for metering services.

4.4.2 Proponents' views and first round of consultation

The proposed rules would amend the criteria that apply to IEC decision making to incorporate matters relevant to advanced metering services that will be available under the new competitive metering framework.

It was proposed that the IEC would be required to have regard to some new B2B factors and give effect to updated B2B principles when making decisions about B2B procedures.¹⁹⁵ Under each proposal, the B2B objective would no longer apply, but would be incorporated into the new B2B factors (see below). The proposed B2B principles are:

- B2B procedures should provide a uniform approach to B2B communications in participating jurisdictions;¹⁹⁶
- B2B procedures should detail operational and procedural matters and technical requirements that result in efficient, effective and reliable B2B communications;
- B2B procedures should avoid unreasonable discrimination between B2B parties;¹⁹⁷ and
- B2B procedures should protect the confidentiality of commercially sensitive information.

While the wording differed slightly between the proposed rules, both the COAG Energy Council and Red and Lumo proposed new B2B factors that would include:

- the reasonable costs of compliance by AEMO and B2B parties with B2B procedures compared with the likely benefits from B2B communications;
- the likely impacts on innovation in and barriers to entry to the market for services facilitated by advanced metering services¹⁹⁸ resulting from making the new B2B procedures or changing the existing B2B procedure; and

¹⁹⁵ COAG Energy Council rule change request, pp. 11-13; Red and Lumo rule change request, pp. 12-13.

¹⁹⁶ Note the removal of 'in which there are no franchise customers'.

¹⁹⁷ Updated to reflect that 'B2B parties' would be required to comply with B2B procedures.

- the implementation timeframe reasonably necessary for AEMO and B2B parties to implement systems or other changes required to be compliant with any new B2B procedure or change to existing B2B procedure.¹⁹⁹

In addition, Red and Lumo proposed that there be a B2B factor that reflects the wording of the NEO given the retail industry panel would not be a market body.²⁰⁰

The COAG Energy Council also proposed a B2B factor on whether a proposed B2B procedure would be an efficient method for parties to meet an obligation. It considered that:²⁰¹

“B2B procedures primarily work to support efficient commercial operations. However, the National Electricity Law and Rules, and individual jurisdiction requirements, also affect the transactions that need to be completed by participants and may lead to a need for corresponding procedures. The AEMC should consider whether an additional B2B factor is needed, which would require the IEC to have regard to whether a change to B2B procedures would be an efficient way to enable parties to meet a legal obligation.”

There were few stakeholder comments on the proposed B2B factors and B2B principles. Several retailers noted their support for the B2B factors and B2B principles put forward by Red and Lumo.²⁰² Several retailers also supported the IEC considering the NEO, either as a B2B factor or as a separate objective to consider. Red and Lumo considered the IEC would be well placed to ensure decisions are efficient and the benefits of change outweigh the costs to consumers.²⁰³

4.4.3 Draft rule determination and second round of consultation

The draft rule required the IEC to have regard to the NEO and B2B factors, and seek to give effect to the B2B principles, when deciding whether or not to recommend a change to B2B procedures. To the extent of any inconsistency between the B2B principles, the IEC would determine which of the B2B principles should prevail.²⁰⁴ In doing so, the IEC would weigh up the B2B principles against each other, while having regard to the NEO and B2B factors.

198 The wording proposed by Red and Lumo does not include 'facilitated by advanced metering services' as it considered that these words may limit consideration of services that aren't provided through the meter, for example customer switching.

199 The wording proposed by Red and Lumo considered the timeframes reasonably necessary for 'AEMO and B2B e-hub participants' to implement systems or other changes to be compliant with the B2B procedure change.

200 Red and Lumo rule change request, p. 13.

201 COAG Energy Council rule change request, p. 12.

202 Submissions to the consultation paper: AGL, p. 4; CEA, p. 2

203 Submissions to the consultation paper: Simply, p. 2; Red and Lumo, p. 1.

204 Draft rule, clauses 7.17.4(q)-(r).

The draft rule made some amendments to the B2B principles, which included:

- B2B procedures should provide a uniform approach to B2B communications in participating jurisdictions;
- B2B procedures should detail operational and procedural matters and technical requirements that result in efficient, effective and reliable B2B communications;
- B2B procedures should avoid unreasonable discrimination between B2B parties; and
- B2B procedures should protect the confidentiality of commercially sensitive information.

In addition, the draft rule introduced three B2B factors, which were:

- the reasonable costs of compliance by AEMO and B2B parties with the B2B procedures compared with the likely benefits from B2B communications;
- the likely impacts on innovation in and barriers to entry to the market for services facilitated by advanced meters resulting from changing the existing B2B procedures; and
- the implementation timeframe reasonably necessary for AEMO and B2B parties to implement systems or other changes required to be compliant with any change to existing B2B procedures.

There were few submissions on the draft rule. A number of stakeholders supported requiring the IEC to consider a revised set of B2B factors, B2B principles and the NEO when making decisions.²⁰⁵ However, United Energy considered there should also be a B2B factor on whether a proposed B2B procedure would be an efficient method for parties to meet an obligation, as proposed by the COAG Energy Council. United Energy considered that such a B2B factor is different to the factor regarding the likely costs and benefits of B2B procedures, which only focusses on the costs to comply with the procedure. In its view, the COAG Energy Council proposed factor would involve assessing whether a B2B procedure is required for the least cost compliance with other obligations. These other obligations could include those required under the NERR, the competition in metering final rule, or in jurisdictional instruments.²⁰⁶

4.4.4 Commission's analysis and conclusions

The final rule is consistent with the draft rule in respect to the IEC having regard to the NEO and B2B factors, and seeking to give effect to the B2B principles, when deciding whether or not to recommend a change to B2B procedures.

²⁰⁵ Submissions to the draft rule determination: AGL, p. 1; EnergyAustralia, p. 3; Origin, p. 3; Active Stream, p. 1; Red and Lumo, p. 6.

²⁰⁶ United Energy, submission to the draft rule determination, p. 9.

The Commission considers the assessment framework that guides IEC decisions should be amended to reflect recent changes under the competition in metering and embedded networks final rules. While the current considerations are still relevant for making B2B procedures, new considerations are necessary to assist the IEC in making decisions that effectively support both the provision of innovative and competitive metering services and new participants in the market.

B2B principles

The proponents suggested removing the words 'in which there are no franchise customers' from the first B2B principle under the existing arrangements (see section 4.4.1). As a consequence, the IEC would be required to consider a uniform approach to B2B communications across all participating jurisdictions. It would therefore consider the suitability of B2B communications in jurisdictions that have franchise customers equally to other jurisdictions.²⁰⁷

When this principle was introduced, franchise customers were relevant to B2B communications because as not all jurisdictions had applied retail competition. In jurisdictions with no retail competition, the retailer and the DNSP were often the same organisation and did not require B2B communications. It was not necessary to consider the suitability of B2B communications in those jurisdictions.

There are now very few franchise customers²⁰⁸ and it is not necessary to treat jurisdictions differently on this basis with regard to B2B communications. For these reasons the final rule removes the words 'in which there are no franchise customers' from the first B2B principle. As a result, the first B2B principle reads: "B2B procedures should provide a uniform approach to B2B communications in participating jurisdictions".²⁰⁹

The final rule also amends the third existing B2B principle. The third B2B principle was previously that B2B procedures should avoid unreasonable discrimination between local retailers, market customers and distribution network service providers. The final rule amends this so that the B2B procedures should avoid unreasonable discrimination between all 'B2B parties', as these are the parties that must comply with B2B procedures (see section 5.3). This is consistent with the proposed rules.²¹⁰

B2B factors

The previous B2B objective references the detriments and benefits for the parties that must comply with B2B procedures. This is still an important consideration for the IEC, however it should not be the overarching objective. There are other important considerations that the IEC should be able to weigh against each other when making

²⁰⁷ A franchise customer is a customer that must purchase electricity from its local retailer as retail competition does not apply.

²⁰⁸ Customers of Ergon in Queensland are the only franchise customers. In Tasmania, retail competition has been applied but there is currently only one retailer operating.

²⁰⁹ Final rule, 'B2B principles' in Chapter 10.

²¹⁰ *ibid.*

decisions about B2B procedures. For these reasons, the final rule includes an assessment of the costs of compliance and benefits for B2B parties and AEMO as a B2B factor, instead of retaining it as the B2B objective.

It will also be important for the IEC to consider the impacts of a decision on potential new entrants in order to not inhibit competition in the market. As articulated by the COAG Energy Council:²¹¹

“The way in which new services are integrated into B2B procedures will be important for supporting innovation and competition. Service providers are likely to seek market advantage by offering innovative services and might not want to compromise this by sharing their intellectual property in the form of public B2B procedures. However, as new services become more common and established, it is likely to be more efficient if providers start to use shared procedures and communications tools. Some new entrants might want their service to be supported by procedures at an early stage.”

For these reasons, the final rule includes a B2B factor related to innovation in and barriers to entry to the markets for services facilitated by advanced meters. As a consequence, IEC decisions should take into account impacts on new services and potential new entrants in the market.

The final rule also includes a B2B factor on implementation timeframes as proposed by the proponents. The inclusion of this new B2B factor will require the IEC to consider implementation timeframes for different possible B2B changes when making its recommendation. For example, the IEC may decide to recommend a procedure change that only includes a limited number of services in order to implement that procedure by a particular date, instead of a procedure that includes a greater range of services but would take longer to implement.²¹² This may be particularly important during the first few years of a new B2B framework where staging and implementation may be an important consideration for the IEC and B2B parties (see Chapter 6).

The COAG Energy Council proposed (and United Energy supported) the inclusion of a B2B factor on whether the proposed B2B procedure would be an efficient way for parties to meet an obligation. The COAG Energy Council noted that the NEL, NER and jurisdictional requirements can affect the efficient commercial operations of participants. For this reason, the IEC should consider whether an obligation should be supported through B2B procedures with corresponding B2B communications.²¹³

The Commission considers that such matters would form part of the assessment of costs and benefits of a proposed B2B procedure. If certain parties are required to provide a service or communicate a particular way, for example under jurisdictional regulations or other retail market procedures, the IEC would be able to consider whether the benefits of including that communication in the B2B procedures (that is,

211 COAG Energy Council rule change request, p. 13.

212 Final rule, 'B2B factors' in Chapter 10.

213 COAG Energy Council rule change request, p. 12.

the cost savings to the affected parties compared to using an alternative) outweigh the costs of compliance with the B2B procedure. Such costs may include any compliance costs for other participants or necessary upgrades to the B2B e-hub. Accordingly, it is unnecessary to include a B2B factor specifically related to meeting an obligation in the final rule.

National electricity objective

The new B2B framework under the final rule is expected to support a wider range of services being provided to participants and consumers. As a result, the Commission considers it important that proposed changes to B2B procedures are assessed against the NEO.

The final rule requires the IEC to have regard to the NEO when deciding whether or not to recommend a change to the B2B procedures to AEMO. This requirement provides an overarching principle to guide the IEC's decision making. As discussed in section 4.5.4 below, AEMO would not be responsible for assessing proposed changes to the B2B procedures against the NEO.

4.5 AEMO's role in making B2B procedures

4.5.1 Introduction

Under the previous B2B framework, the IEC could make a recommendation to AEMO to make new B2B procedures. AEMO was then required to make the recommended B2B procedure unless it concluded that:

- there was an inconsistency between the proposed B2B procedure and MSATS procedures;
- the IEC had failed to have regard to the B2B objective or B2B principles; or
- the IEC had not followed the rules consultation procedures in its decision making process.

AEMO was prevented from considering the merits of the IEC recommendation or the way in which the IEC had considered the B2B objective or B2B principles.²¹⁴

4.5.2 Proponents' views and first round of consultation

The proposed rules included amendments to the grounds on which AEMO may veto an IEC recommendation.²¹⁵ Both of the proponents proposed that AEMO may veto an IEC recommendation if the IEC has not considered the B2B factors or B2B principles.²¹⁶

²¹⁴ Previous NER, clauses 7.2A.3(k)-(l).

²¹⁵ COAG Energy Council proposed rule, clause 7.17.5; Red and Lumo proposed rule, clause 7.17.5.

The COAG Energy Council considered that it will be important for the NEO to be considered when making B2B procedures. However, it raised some concerns about the IEC, rather than AEMO, being responsible for carrying out the assessment of proposed changes to B2B procedures against the NEO. The COAG Energy Council considered:²¹⁷

“... the role of considering whether a procedure change would contribute to achieving the NEO should be carried out by AEMO.

This is consistent with the existing governance arrangements contained within the National Electricity Law (NEL). Each of the market institutions are required to perform their statutory functions in a way that contributes to the delivery of the NEO, but a similar obligation is not placed on industry bodies. It would be contradictory under the NEL for an industry group, but not AEMO, to have a role in considering whether a proposal contributes to achieving the NEO.”

In light of these views, the COAG Energy Council proposed that when the IEC makes a recommendation to change the B2B procedures it must have regard to the B2B factors and give effect to the B2B principles. Then AEMO would be required to have regard to the NEO when deciding whether or not to approve the IEC recommendation.²¹⁸

The COAG Energy Council also included amendments to the type of IEC decisions that are subject to AEMO's approval. Currently, the IEC makes a recommendation to AEMO only if it determines that a change should be made to the B2B procedures. If the IEC concludes that a B2B procedure change should not be made then it simply does not make a recommendation to AEMO and AEMO must not take any further action in respect of the proposal.²¹⁹ Under its proposed rule, the IEC would be required to provide a recommendation to AEMO on whether or not to make the B2B procedure change. AEMO would then approve, or not approve, that IEC recommendation.

As part of this new framework, the COAG Energy Council also proposed a mechanism for managing a situation where the IEC's recommendation is not approved by AEMO and the IEC remakes a recommendation that is again vetoed by AEMO. Under the COAG Energy Council's proposed rule, such a stalemate would be resolved through requiring the IEC to adopt any adjustments or modifications to the IEC recommendations as specified by AEMO in its decision.²²⁰ In its rule change request, the COAG Energy Council requested the AEMC consider the likelihood of such a stalemate situation arising and how this could be resolved (in considering either the proposed rule or a suitable alternative).

216 This proposal reflects the updated considerations for making a B2B procedure discussed in section 4.4.4. Note that under the Red and Lumo proposal, the NEO would be included as a B2B factor.

217 COAG Energy Council rule change request, p. 14.

218 COAG Energy Council proposed rule, clauses 7.17.4(q) and 7.17.5.

219 Previous NER, clause 7.2A.3(k) and competition in metering final rule, clause 7.17.3(k).

220 COAG Energy Council proposed rule, clause 7.17.5(h).

Not all stakeholders supported AEMO having a greater role in decision-making through an additional veto power based on the NEO.²²¹

- Red and Lumo noted that under their proposed rule, the veto power would be slightly expanded because AEMO would be able to veto an IEC recommendation on wider grounds – that is, if the IEC fails to consider the NEO, B2B factors or B2B principles.²²²
- The AEC (previously the CEA) and Energex considered the IEC has suitable market experience to assess whether a B2B procedure is consistent with the NEO and the cost impacts on customers. In addition, considering the B2B factors and B2B principles would assist the IEC in coming to a decision that is consistent with the NEO.²²³
- United Energy and AusNet Services noted that AEMO would be involved in the procedure making process and that it would be more efficient for AEMO to raise any concerns regarding the NEO at an earlier stage. AusNet Services suggested that AEMO be required to provide a formal NEO assessment at appropriate points during B2B procedure development.²²⁴

Simply Energy commented the COAG Energy Council proposal for managing a stalemate between AEMO and the IEC was quite complex.²²⁵ AGL considered that a stalemate between the IEC and AEMO would be very unlikely given the role of the AEMO member as chairperson of the IEC.²²⁶

4.5.3 Draft rule determination and second round of consultation

Under the draft rule, AEMO had a limited right of veto in respect of IEC recommendations. More specifically, the draft rule required AEMO to approve an IEC recommendation unless it concluded that the IEC's recommendation would conflict with MSATS procedures. The Commission considered that reducing the grounds on which AEMO may veto an IEC recommendation clarifies accountability and the nature and scope of the decision-making roles of the IEC and AEMO.

Consistent with the current B2B arrangements, the draft rule did not permit AEMO to consider the merits of the IEC recommendation.²²⁷

The draft rule provided that, if an IEC recommendation is vetoed by AEMO, the IEC may reconsider the proposed change to the B2B procedures and subsequently make an

221 Submissions to the consultation paper: Ergon, p. 4; ENA, p. 3; Active Stream, p. 2.

222 Noting that the NEO would be a B2B factor under the Red and Lumo proposal. Red and Lumo, p. 4.

223 Submissions to the consultation paper: CEA, p. 2; Energex, p. 5.

224 Submissions to the consultation paper: United Energy, Appendix p. 7; AusNet Services, p. 7.

225 Simply Energy, submission to the consultation paper, p. 2.

226 AGL, submission to the consultation paper, p. 4.

227 Draft rule, clauses 7.17.5(b)-(c).

IEC recommendation, which may be materially different from the vetoed recommendation.²²⁸

Consistent with this approach, the draft rule did not require the IEC to make a recommendation to AEMO in circumstances where the IEC has determined that the proposed change to the B2B procedures should not be made, as suggested by the COAG Energy Council. However, the draft rule still required the IEC to include details of such a decision in the final report that is prepared as part of the consultation process for the proposed procedure change.²²⁹ If a B2B party or B2B change party is not satisfied with an IEC decision to not recommend a B2B procedure, that person would be able to seek a review of that decision under the dispute resolution provisions in the NER.²³⁰

In submissions to the draft rule, stakeholders were generally supportive of limiting AEMO's ability to veto an IEC recommendation to where there is a conflict with MSATS procedures. They considered that this would clarify the accountability for decision-making.²³¹

4.5.4 Commission's analysis and conclusions

The final rule is consistent with the draft rule in respect to AEMO's role in the B2B procedure making process.

Under the previous B2B arrangements, the IEC was responsible for assessing proposed changes to the B2B procedures and making recommendations to AEMO in respect of these changes. AEMO was responsible for determining whether to approve such recommendations and, when necessary, publishing revised B2B procedures. AEMO could only veto an IEC recommendation in limited circumstances.

It is important that the IEC and AEMO are accountable for their roles in the decision-making process for B2B procedures and that their respective roles and responsibilities are clear. The previous arrangements already provided for a complex set of decision-making parameters for the IEC and AEMO. This could become more complex, and potentially uncertain, if AEMO is required to assess whether the IEC has considered each of the NEO, B2B factors and B2B principles when making an IEC recommendation.

To address this, the final rule limits the grounds on which AEMO may veto an IEC recommendation to where the IEC's recommendation would conflict with MSATS procedures. This amendment serves to simplify and clarify the nature and scope of the decision-making roles of the IEC and AEMO in respect of proposed changes to the B2B

²²⁸ Draft rule, clause 7.17.5(f)(2). This was supported by AGL in its submission to the consultation paper, p. 4.

²²⁹ Draft rule, clauses 7.17.4(n)-(p).

²³⁰ Draft rule, clause 8.2A.2(i).

²³¹ Submissions to the draft rule determination: AGL, p. 1; EnergyAustralia, p. 3; ERM, p. 4; Origin, p. 3; Active Stream, p. 1; Red and Lumo, p. 7.

procedures, while retaining AEMO's ability to veto an IEC recommendation on the ground that it is inconsistent with MSATS procedures. This is an important safeguard for AEMO to ensure there are no impacts with regard to its market settlement functions. However, as the final rule requires AEMO's advice on any potential conflicts with MSATS procedures to be sought as part of the procedure change consultation process, it is unlikely that such veto would need to be exercised by AEMO.

The second and third grounds on which AEMO may veto an IEC recommendation under previous clause 7.2A.3(k) of the NER (and clause 7.17.3(k) of Chapter 7, as amended by the final rule for competition in metering)²³² are not included in the final rule. These are grounds on which a person could apply for judicial review of an IEC recommendation. In addition, a party who is adversely affected by the way in which the IEC has sought to achieve the B2B objective or had regard to the B2B principles has the ability to seek merits review of the IEC recommendation under dispute resolution provisions in rule 8.2A. In light of these potential avenues of review, the Commission does not consider it necessary or appropriate to maintain the second and third grounds on which AEMO may veto an IEC recommendation under a revised B2B framework.

4.6 Dispute resolution

4.6.1 Introduction

The process and requirements for resolution of 'B2B determination disputes'²³³ were previously set out in rule 8.2A of the NER. It enabled DNSPs, market customers and local retailers that were adversely affected by an IEC recommendation or B2B decision to seek a review of that decision.²³⁴

4.6.2 Proponents' views and first round of consultation

Both of the proposed rules extend access to dispute resolution to metering providers, metering providers and third party B2B participants.²³⁵

However, the COAG Energy Council noted that not all parties who can propose a change to the B2B procedures will be 'B2B parties' and be able to access the dispute resolution process under its proposed rule. Given the possibility that a new entrant may propose a change to B2B procedures, the COAG Energy Council requested the

²³² Such grounds being that: "the IEC has failed to have regard to the B2B Objective and/or the B2B Principles" and "the IEC has not followed the rules consultation procedures". See section 4.4.4.

²³³ A dispute in relation to either a B2B decision or an IEC Recommendation. Previous NER, Chapter 10.

²³⁴ Clause 8.2A.2(i) of the previous NER. Under Chapter 10 of the previous NER, a 'B2B decision' is a decision of AEMO to approve or not approve an IEC Recommendation and an 'Information Exchange Committee recommendation' is a recommendation made by the IEC to AEMO to make B2B Procedures or to change the B2B Procedures.

²³⁵ COAG Energy Council proposed rule, clause 8.2A.2(i); Red and Lumo proposed rule, clause 8.2A.1(i).

AEMC consider the impacts of some parties not being able to seek dispute resolution regarding a B2B decision.²³⁶

There were few stakeholder comments on dispute resolution arrangements for B2B determination disputes. Ausgrid generally supported the availability of dispute resolution with regard to decisions on B2B procedures.²³⁷ The CEA (now the AEC) did not consider that dispute resolution needed to be available to any party in addition to B2B parties. This was because in its view, parties are likely to use the B2B e-hub (and be a B2B party) before they seek to include new communications into the B2B procedures. Consequently, the likelihood of a person seeking to incorporate new services before becoming a B2B participant is quite low.²³⁸

4.6.3 Draft rule determination and second round of consultation

The draft rule enabled B2B parties and B2B change parties²³⁹ that are affected by an IEC recommendation or a B2B decision to apply for review of that decision.²⁴⁰

The draft rule also expanded the types of decisions that may be reviewed under the dispute resolution provisions to include an IEC decision to not recommend the proposed change to the B2B procedures.²⁴¹

In submissions to the second round of consultation, AGL, Red and Lumo considered that B2B change parties should not have access to dispute resolution.²⁴² They considered that:

- B2B change parties could use the review process (which may be costly and time consuming) to block the implementation of efficient procedures or to argue for the standardisation of inefficient procedures;
- costs cannot be recovered from B2B change parties; and
- dispute resolution is not likely to be used by these parties.

4.6.4 Commission's analysis and conclusions

As outlined in section 4.3, the final rule enables any person to propose a change to the B2B procedures. While it may be unlikely that a person will propose a change to B2B

²³⁶ COAG Energy Council rule change request, p. 18. The COAG Energy Council proposed rule removed an IEC recommendation from the matters that can be reviewed under dispute resolution. See clause 8.2A.2(i)(d1)

²³⁷ Ausgrid, submission to the consultation paper, p. 7.

²³⁸ CEA, submission to the consultation paper, p. 2.

²³⁹ B2B change parties are parties (other than B2B parties) that have proposed a change to the B2B procedures.

²⁴⁰ Draft rule, clause 8.2A.2(i)(d1).

²⁴¹ Draft rule, clause 8.2A.2(i)(d1) and 'IEC recommendation' in Chapter 10.

²⁴² Submissions to the draft rule determination: AGL, p. 5; Red and Lumo, p. 7.

procedures prior to becoming an accredited B2B e-hub participant, it could be possible and should not be prevented given the innovative nature of new metering communications and new parties in the market.

If the IEC decides not to recommend a B2B procedure change and the proposing party does not have access to dispute resolution to seek review of the decision, there are two potential solutions for the affected party:

- where there is a metering coordinator that is, or would be, providing the affected party with access to services facilitated by the meter, that metering coordinator could commence the dispute resolution process to the extent the metering coordinator was also adversely affected; or
- if the affected party seeks to access to a shared communications platform, it could become a B2B e-hub participant and then propose changes to the B2B procedures.

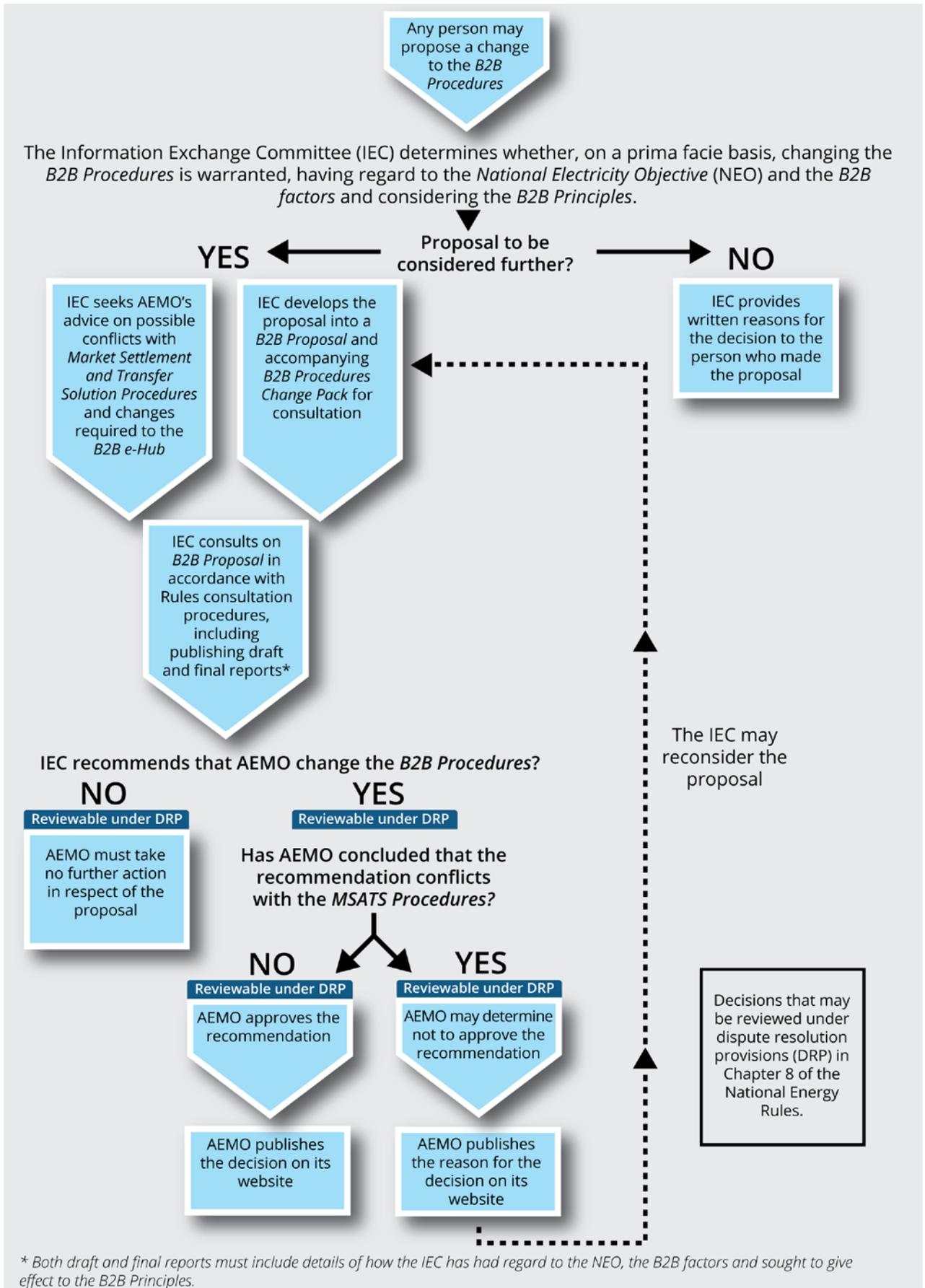
While these options may resolve the issue for an affected party, the Commission considers that it is a good decision making process that provides parties that are adversely affected with the ability to seek review of a decision.

A feature of the dispute resolution framework is that it facilitates resolution in a simple, quick and inexpensive manner. In addition, if a participant has unreasonably prolonged or escalated the dispute, costs can be awarded against that party.²⁴³ The Commission considers that the likelihood of a B2B change party challenging an IEC recommendation on vexatious grounds is small and outweighed by the benefits of dispute resolution being available to these parties.

Figure 4.1 provides an overview of the process for changing the B2B procedures under the final rule that have been outlined in this chapter, including the decisions that are subject to review under the dispute resolution provisions.

²⁴³ NER, clauses 8.2.1(e) and 8.2.8. In general, costs are borne equally by the parties to the dispute. They may also mutually agree to a different cost allocation.

Figure 4.1 Final rule process for changing the B2B procedures



5 Using the B2B framework

Box 5.1 Final rule determination

The final rule requires that the B2B e-hub must be capable of facilitating B2B communications in accordance with the B2B procedures. The B2B e-hub must also have the capability to support a free-form method of communication between B2B parties and meet any performance requirements set out in the B2B procedures.

AEMO and B2B parties (being DNSPs, retailers, local retailers, metering coordinators, metering providers, metering data providers, embedded network managers and other third party B2B participants) must comply with the B2B procedures.

B2B parties must use the B2B e-hub for B2B communications, except where they have agreed to communicate a B2B communication on a basis other than through the B2B e-hub.

In order to use the B2B e-hub, a party must first be accredited as a B2B e-hub participant by AEMO through an accreditation process. Under the final rule, AEMO has discretion to determine the nature of accreditation requirements for B2B e-hub participants.

The costs of developing B2B procedures, establishing and operating the IEC, and services provided by AEMO to facilitate B2B communications (such as providing the B2B e-hub) must be paid by AEMO and recouped through participant fees. IEC members (other than the AEMO member) must bear any costs related to their participation in the IEC.

5.1 Introduction

This chapter sets out the Commission's final rule determination in relation to B2B parties using the B2B framework and includes requirements on:

- the operation of the B2B e-hub;
- compliance with B2B procedures and use of the B2B e-hub;
- accreditation for parties using the B2B e-hub; and
- recovery of costs relating to the B2B framework.

5.2 B2B e-hub

5.2.1 Introduction

Under the previous NER, AEMO was required to provide and operate a B2B e-hub, being an electronic platform used to transfer information between participants.²⁴⁴

5.2.2 Proponents' views and first round of consultation

The proposed rules included a new requirement that the B2B e-hub support the B2B communications included in the B2B procedures. As the proposed rules also included a requirement for the B2B procedures to include B2B communications to support the services in the minimum services specification, the B2B e-hub would be required to facilitate B2B communications that support the services in the minimum services specification. In addition, the B2B e-hub would have to support any other B2B communications that the IEC has included in the B2B procedures.

The proponents also proposed a new requirement that the B2B e-hub must meet any performance requirements specified in the B2B procedures. They noted that "the technical performance of the B2B e-hub may influence whether particular advanced services are offered through the B2B e-hub". Allowing the B2B procedures to specify performance requirements would enable the IEC to recommend minimum requirements that will then direct AEMO's development of the B2B e-hub.²⁴⁵

However, Red and Lumo noted that:²⁴⁶

"... there is no provision in the current NER that prohibits AEMO, in consultation with the existing IEC and stakeholders more broadly, from upgrading or changing the technology used for the B2B e-hub. If the existing B2B e-hub is not fit for current or future purpose, stakeholders expect that AEMO would flag this situation with industry, consult and budget accordingly."

In response to the consultation paper, Vector noted the importance of the NER providing that parties may agree to an alternative form of communication to reinforce the market led approach to competitive metering services.²⁴⁷

5.2.3 Draft rule determination and second round of consultation

The draft rule introduced requirements for the B2B e-hub to support the B2B communications that are included in the B2B procedures (including those that may be

²⁴⁴ Previous NER, clause 7.2A.1.

²⁴⁵ COAG Energy Council rule change request, p. 15; Red and Lumo rule change request, pp. 13-14.

²⁴⁶ Red and Lumo rule change request, p. 14.

²⁴⁷ Vector, submission to the consultation paper, p. 1.

introduced to support advanced metering services). Specifically, the draft rule required that the B2B e-hub:

- must have the capability to facilitate the B2B communications set out in the B2B procedures; and
- must meet any performance requirements specified in B2B procedures.²⁴⁸

In addition, the draft rule included a requirement that the B2B e-hub must have the capability to support free-form communications between B2B parties.²⁴⁹ This functionality is currently available through the B2B e-hub. Continuing this capability would enable parties to communicate regarding a service that is not supported by a B2B communication in the B2B procedures (for example, new services in the market).

A number of submissions to the draft rule determination were supportive of the requirements in the draft rule for a B2B e-hub.²⁵⁰ In particular, stakeholders supported the requirement that the B2B e-hub support free-form communications to facilitate services between small numbers of parties that are commercially sensitive, highly tailored or low frequency.²⁵¹

5.2.4 Commission's analysis and conclusions

The final rule is consistent with the draft rule in respect to the requirements for a B2B e-hub.

The NER did not previously include any technical requirements for the B2B e-hub. The only guidance on the form of the B2B e-hub was found in its definition: "an electronic information exchange platform established by AEMO to facilitate B2B communications".²⁵²

The technical performance of the B2B e-hub may influence whether B2B communications for particular advanced services can be facilitated by the B2B e-hub. This may also influence the potential new services and benefits available to consumers. For example, it may be considered necessary that the B2B e-hub:

- can provide 'near instant' messaging so the associated services can be provided quickly to capture the benefits of those services;
- has sufficient capacity to manage the quantity of services expected to be facilitated by advanced meters;

248 Draft rule, clause 7.17.1(b).

249 Draft rule, clause 7.17.1(b)(2).

250 Submissions to the draft rule determination: ERM, p. 5; Origin, p. 3; Vector, p. 2; Red and Lumo, p. 7.

251 Submissions to the draft rule determination: ERM, p. 5; Origin, p. 3; Metropolis, p. 2; Vector, p. 2.

252 Previous NER, 'B2B e-hub', Chapter 10.

- can allow its users to choose the most appropriate means of messaging for their commercial or technical needs; and
- is flexible enough to provide any additional functionality that is required to support the requirements of amended B2B procedures.

The Commission understands that the B2B e-hub is not currently capable of supporting 'near instant' messages that would be necessary to support certain advanced metering services. For example, 'near instant' messaging could enable a DNSP to access certain information from a meter quickly to manage network security and reliability in a timely manner. It may also allow a retailer to access services while addressing a telephone inquiry from a customer.

For these reasons, the Commission considers it important that industry, through the IEC and development of B2B procedures, is able to set minimum requirements for the capability and performance of the B2B e-hub.

As a consequence of these changes, on the date of commencement of the new B2B framework under the final rule (being 1 December 2017), there will need to be:

- B2B procedures in place that include B2B communications that support the services in the minimum services specification; and
- B2B e-hub functionality to facilitate a free form method of communication and the B2B communications as required by the B2B procedures.

However, the Commission notes that B2B procedures may specify a method of communication that does not involve the B2B e-hub, if the IEC considers that to be appropriate for the particular communication. If B2B procedures do not require the B2B communication to be provided through the B2B e-hub, the B2B e-hub does not need to be capable of providing that particular B2B communication.²⁵³

This is relevant for transitional arrangements under the final rule discussed further in section 6.5.

5.3 Complying with B2B procedures and using the B2B e-hub

5.3.1 Introduction

Previously, AEMO, DNSPs, local retailers, market customers, metering providers and metering data providers were required to comply with B2B procedures.²⁵⁴ Under the

²⁵³ Final rule, clauses 7.17.1(b) and (e). The B2B e-hub is required to have the capability to facilitate B2B communications in accordance with the B2B procedures and parties must use the B2B e-hub for B2B communications in accordance with the B2B procedures. The requirement for certain parties to use the B2B e-hub for B2B communications in accordance with the B2B procedures is reflected in clause 7.2A.1 of the current NER.

²⁵⁴ Previous NER, clause 7.2A.4(i).

embedded networks final rule, embedded network managers would be required to comply with B2B procedures from 1 December 2017.²⁵⁵

In addition, DNSPs, local retailers and market customers were required to use the B2B e-hub for B2B communications, as required by B2B procedures, except where they agreed to communicate a B2B communication on another basis.²⁵⁶

5.3.2 Proponents' views and first round of consultation

The proponents considered that AEMO, DNSPs, retailers, metering coordinators, metering providers, metering data providers and third party B2B participants should be required to comply with B2B procedures.

In addition, the proponents considered that DNSPs, retailers, metering coordinators, metering providers, metering data providers and third party B2B participants should be required to use the B2B e-hub for B2B communications, unless they have agreed between themselves to use an alternative method of communication. The proponents noted that the B2B procedures should continue to apply (other than to the extent that the provisions relate to the use of the B2B e-hub) if parties choose to use an alternative to the B2B e-hub.

The proponents considered that this approach would support interoperability and minimise barriers to entry for new participants (as a new entrant would only need to integrate with one IT system, rather than a different system for each metering coordinator). This was expected to support the entry of innovative products and services into the electricity market.²⁵⁷

In submissions to the consultation paper, DNSPs agreed that parties should be required to use the B2B e-hub unless they mutually agree to an alternative method of communication.²⁵⁸

Vector and EDMI considered it important that parties be able to agree to an alternative method of communication, so as to not inhibit innovation in the market for services. Vector also noted that:²⁵⁹

“... allowing parties to use alternative communication methods... reinforces the market-led approach of the ongoing reforms in the NEM, and is

²⁵⁵ AEMC, Embedded networks final rule determination, 17 December 2015, Appendix C.2.8.

²⁵⁶ Previous NER, clauses 7.2A.1 and 7.2A.4(k). B2B procedures were able to specify a communication process that did not involve the B2B e-hub. Under the previous arrangements, where such parties agreed between themselves to communicate on a basis other than as set out in the B2B procedures, the parties need not comply with the B2B procedures to the extent that the terms and conditions agreed between themselves were inconsistent with the B2B procedures.

²⁵⁷ COAG Energy Council rule change request, p. 16; Red and Lumo rule change request, p. 15.

²⁵⁸ ENA, submission to the consultation paper, p. 3.

²⁵⁹ Submissions to the consultation paper: Vector, p. 1; EDMI, p. 2.

consistent with the light-handed arrangements for the provision of competitive metering services.”

5.3.3 Draft rule determination and second round of consultation

The draft rule required AEMO and B2B parties to comply with B2B procedures. B2B parties included: DNSPs; retailers; metering coordinators; metering providers; metering data providers; embedded network managers; and third party B2B participants.²⁶⁰

Under the draft rule, B2B parties were also required to use the B2B e-hub for B2B communications. However, these parties would be able to agree between themselves to use an alternative method of communication.²⁶¹

Origin, Red and Lumo expressed their support for this aspect of the draft rule.²⁶²

5.3.4 Commission's analysis and conclusions

Complying with B2B procedures

The final rule is consistent with the draft rule in respect to who must comply with B2B procedures. It adds metering coordinators and third party B2B participants as participants that must comply with B2B procedures.²⁶³

The Commission considers that metering coordinators and third party B2B participants will have an interest in services provided through a customer's meter and should be required to comply with the B2B procedures.

Embedded network managers will also be a new party in the market and will be responsible for providing market interface functions, such as obtaining a NMI, to facilitate off-market embedded network customers seeking to go on-market. The final rule maintains the requirement for embedded network managers to comply with B2B procedures that would be introduced under the embedded networks final rule on 1 December 2017.

Using the B2B e-hub

The final rule is consistent with the draft rule in respect to who must use the B2B e-hub.

The Commission considers that a requirement for certain parties to use the B2B e-hub supports interoperability and potentially minimises one of the barriers to entry for new

²⁶⁰ Draft rule, clause 7.17.1(d).

²⁶¹ Draft rule, clauses 7.17.1(e)-(f).

²⁶² Submissions to the draft rule determination: Origin, p. 4; Red and Lumo, p. 7.

²⁶³ Note that some metering coordinators are exempt from the requirement to comply with B2B procedures. Final rule, clause 7.17.1(g).

participants in the market. It would be easier and less costly for a new entrant if it only needs one set of processes and systems in place (the B2B e-hub) to communicate with each metering coordinator. Otherwise, the new entrant may need to develop multiple processes to interact with multiple services providers.²⁶⁴ Having a default or shared communications platform also potentially reduces the operating costs for DNSPs and retailers.

However, to support the provision of competitive metering services and not inhibit innovation in the market, the Commission also considers it important that parties be able to agree to an alternative method of communication. It is important for parties to have flexibility to negotiate and use alternatives to the B2B e-hub should a more efficient or preferable method be available. Nevertheless, it is anticipated that most parties that fall within the B2B framework will elect to use the B2B e-hub for the interoperability benefits.

With regard to embedded network managers, the Commission considers it appropriate that these parties also be required to use the B2B e-hub for B2B communications. This is a change from the embedded networks final rule, which did not require embedded networks managers to use the B2B e-hub. At the time, the Commission did not consider this requirement necessary because the B2B e-hub only supported a more limited range of services and it was considered sufficient that embedded network managers could use the B2B e-hub if they elected to.²⁶⁵

However, embedded network managers will provide market interface functions and will communicate with other participants that operate under the B2B framework. Consequently, the Commission considers it appropriate that the requirement to use the B2B e-hub is applied consistently to participants within the B2B framework. However, an embedded network manager may agree with its counter-party to use an alternative method of communication. Alternatively, the B2B procedures may provide an alternative to the B2B e-hub as the method of communication for the relevant communications.

Alternatives to the B2B e-hub

It is worth noting that, under the final rule, B2B parties are only required to use the B2B e-hub for B2B communications as required by the B2B procedures. It is possible for the B2B procedures to set out a method of communication that does not specify the use of the B2B e-hub, if that is considered most suitable for the particular circumstances and relevant service. This is discussed further in section 6.5.

Metering coordinators and the B2B e-hub

Under the competition in metering final rule, there is no obligation on a metering coordinator to provide the services in the minimum services specification. The price

²⁶⁴ This was noted in the COAG Energy Council rule change request, p. 16.

²⁶⁵ AEMC, Embedded networks final rule determination, 17 December 2015, Appendix C.2.8.

and other terms related to accessing those services would be negotiated between relevant parties.

However, if a metering coordinator does offer a service in respect of which there is a B2B communication prescribed in the B2B procedures, it must use the B2B e-hub as required by the B2B procedures for that communication unless agreed otherwise with the counter-party to the B2B communication. To the extent that a metering coordinator has contracted with a metering provider or metering data provider to provide a service that is the subject of a B2B communication in the B2B procedures, these parties would also be required to use the B2B e-hub to provide advanced metering services unless agreed otherwise.

Some metering coordinators will be exempt from the requirement to comply with B2B procedures and use the B2B e-hub for B2B communications. These are parties that are appointed as a metering coordinator in respect of a transmission network connection point and are not accredited as a B2B e-hub participant. These parties are also exempt from some other requirements for metering coordinators under the competition in metering final rule and will be unlikely to have an interest in the types of communications supported by B2B procedures as these parties are not generally interested in services related to small customer meters. However, these exempt metering coordinators could opt-in to the B2B framework by becoming an accredited third party B2B participant.²⁶⁶

5.4 Accreditation

5.4.1 Introduction

Previously there were no requirements in the NER related to how parties may access the B2B e-hub. All parties that used the B2B e-hub were already either registered participants or accredited with AEMO as service providers under the NER. To access the B2B e-hub, registered participants and accredited service providers obtained a participant identification from AEMO. This allowed them to sign in to AEMO's energy market systems. The Commission understands that these parties were not required to demonstrate to AEMO that they had compatible back-end systems for interacting with the B2B e-hub.

When advanced metering services become available through a customer's meter, parties that are not otherwise registered participants or accredited service providers may wish to use the B2B e-hub to provide their services.

5.4.2 Proponents' views and first round of consultation

The proposed rules would establish a new accredited party role (B2B e-hub participant) and require any party wishing to use the B2B e-hub to be accredited by AEMO. This accommodates within the B2B e-hub arrangements parties that may wish

²⁶⁶ Final rule, clause 7.17 1(g).

to use the B2B e-hub but do not fall within a defined category of parties under the NER.

Under the proposed framework, AEMO would be required to establish and maintain an accreditation process for B2B e-hub participants and publish information on the accreditation process. The accreditation process would be the means by which third parties using the B2B e-hub would become defined categories of persons under the NER. Those parties would be subject to certain rights and obligations as relevant. For example, the parties could be assigned IEC voting and nomination rights under the NER. Accreditation would also enable AEMO to confirm that parties have appropriate IT and security to interface with and use the B2B e-hub, should this be necessary.²⁶⁷

Red and Lumo also proposed that parties should be 'certified' by AEMO prior to using the B2B e-hub, stating:²⁶⁸

“Certification occurs where participants using the B2B e-hub provide assurance to other B2B e-hub participants that B2B communications will be correctly created, prepared, sent and received. This assurance, or certification, is provided where AEMO validates that a B2B e-hub participant is able to send a receive communications in a compliant fashion. It is also expected that where a B2B e-hub participant makes changes to their internal systems which interact with the IT infrastructure used to communicate with other B2B e-hub participants. ”

Both proponents suggested that AEMO should have discretion to apply different processes to different categories of applicant and be able to exempt certain parties from parts of the accreditation process. This discretion would allow AEMO to recognise that parties are likely to interact with the B2B e-hub in different ways. AEMO could minimise compliance costs by applying differentiated but suitable requirements for accreditation as appropriate.²⁶⁹

There was some agreement among stakeholders that parties should be accredited to use the B2B e-hub to allow the appropriate rights and obligations to be established.²⁷⁰ ERM and EnergyAustralia considered that existing B2B e-hub users should have either reduced or deemed accreditation to avoid unnecessary costs.²⁷¹

Vector and Metropolis cautioned that parties may be incentivised to use alternatives to the B2B e-hub if the accreditation requirements are onerous. In their view, accreditation should be low cost and not discourage parties from using the B2B e-hub.²⁷²

²⁶⁷ Red and Lumo rule change request, p. 14; COAG Energy Council rule change request, p. 15.

²⁶⁸ Red and Lumo rule change request, p. 14.

²⁶⁹ COAG Energy Council proposed rule, clause 7.17.2(e); Red and Lumo proposed rule, clause 7.17.2(e).

²⁷⁰ Submissions to the consultation paper: ERM, p. 3; Origin, p. 2; ENA, Appendix p. 2.

²⁷¹ Submissions to the consultation paper: ERM, p. 3; EnergyAustralia, p. 3.

²⁷² Submissions to the consultation paper: Vector, p. 3; Metropolis, p. 4.

United Energy expressed concern with AEMO having the ability to exempt parties from accreditation requirements. Instead of AEMO developing accreditation and certification requirements, United Energy proposed that the IEC develop a technical guideline to set out the B2B e-hub certification requirements.²⁷³

ERM supported Red and Lumo's proposed AEMO certification of user systems.²⁷⁴ In contrast, Vector considered that certification is not necessary in addition to the proposed accreditation framework.²⁷⁵ AusNet Services noted that certification is required in the gas B2B e-hub.²⁷⁶

EDMI considered it may be appropriate to have different accreditation requirements for access to different B2B e-hub environments, for example a test system compared to a production system. It also considered that there should be some flexibility for different types of arrangements for accessing services. For example, a sub-registration category for when a service provider operates a managed service for an existing registered participant should be available.²⁷⁷

5.4.3 Draft rule determination and second round of consultation

The draft rule provided for a new accredited party role: a B2B e-hub participant. Under the draft rule, any party wishing to use the B2B e-hub would be required to be accredited by AEMO as a B2B e-hub participant. This included parties that are already registered participants or accredited service providers, as well as third party service providers that are not otherwise registered or accredited with AEMO.²⁷⁸ However, the draft rule did not specify the particular details of an accreditation framework or include requirements for B2B e-hub participants to certify their IT systems. The Commission considered that AEMO would be able to place these types of requirements on B2B e-hub participants as part of their accreditation requirements if considered necessary.

The draft rule did not deem any parties to be B2B e-hub participants. The Commission considered it important that all participants meet the accreditation requirements considered necessary by AEMO to mitigate any risks of using the B2B e-hub. However, the draft rule provided AEMO with the discretion to apply different requirements to different categories of applicant, or exempt certain parties from certain aspects of the accreditation process.²⁷⁹ While this discretion was not supported by several stakeholders in submissions to the consultation paper, it would enable AEMO to minimise unnecessary administrative burden where appropriate.

²⁷³ United Energy, submission to the consultation paper, Appendix p. 9.

²⁷⁴ ERM, submission to the consultation paper, p. 3.

²⁷⁵ Vector, submission to the consultation paper, p. 3.

²⁷⁶ AusNet Services, submission to the consultation paper, p. 13.

²⁷⁷ EDMI, submission to the consultation paper, pp. 3-4.

²⁷⁸ Draft rule, clause 7.17.1(c).

²⁷⁹ Draft rule, clause 7.17.2(d).

To support these requirements, the draft rule required AEMO to establish an accreditation process for B2B e-hub participants. As well as providing for an ability to establish relevant IT requirements, the accreditation process was able to include any payment and credit support requirements considered necessary by AEMO.²⁸⁰

There were few submissions on the accreditation requirements under the draft rule, however some retailers expressed their general support.²⁸¹ Vector supported the decision to not require certification requirements in addition to accreditation, as onerous requirements could reduce the incentive for parties to use the B2B e-hub.²⁸² The ability for AEMO to exempt certain parties from accreditation requirements was supported by ERM on the basis that it allows costs to be minimised where appropriate.²⁸³

5.4.4 Commission's analysis and conclusions

Accreditation and certification

The final rule is consistent with the draft rule in respect to the accreditation requirements.

While AEMO does not require parties to test their systems to access the current B2B e-hub technology, the technology may change in the future and certain requirements may be appropriate. AEMO should have the discretion to set requirements for various participants using the B2B e-hub regarding the participants' internal IT requirements or security. This ability may be more important in the future as the wider use of advanced metering services may present a different risk around data, security and confidentiality.

Establishing a new accredited party role, a 'B2B e-hub participant', provides a mechanism for AEMO to impose accreditation requirements related to interacting with the B2B e-hub as necessary.

Discussions with AEMO to date have indicated that accreditation of B2B e-hub participants is not likely to be onerous. AEMO would have discretion to develop requirements that are appropriate to the level of risk of parties interfacing with the B2B e-hub.

For example, accreditation could be as simple as lodging a name and contact details with AEMO to secure a username and password for accessing the B2B e-hub. Alternatively, it could require the applicant testing its IT system in a test B2B e-hub environment ('certification') similar to the requirements for parties accessing the gas FRC hub (the gas equivalent of the B2B e-hub). Or, if AEMO considers it necessary, accreditation could include specific IT or security requirements.

²⁸⁰ Draft rule, clauses 7.17.2(b)-(c). See also section 5.5.

²⁸¹ Submission to the draft rule determination: Origin, p. 3; Red and Lumo, p. 7.

²⁸² Vector, submission to the draft rule determination, p. 2.

²⁸³ ERM, submission to the draft rule determination, p. 4.

Third parties

A consequence of the accreditation requirements under the final rule is that a third party service provider²⁸⁴ seeking to use the B2B e-hub must become an accredited B2B e-hub participant. This arrangement enables rights and obligations to be imposed on these parties as a consequence of becoming a 'third party B2B participant'.²⁸⁵ This would not otherwise be possible, given third party service providers are not otherwise registered participants or accredited service providers.

The Commission notes that, following the commencement of the competition in metering framework, it is expected that third party service providers would generally negotiate with metering coordinators to access or provide services through a customer's meter. For example, the metering coordinator must ensure that a small customer's metering data is only accessed by a person who is authorised under the NER or who has the customer's consent.²⁸⁶ As metering coordinators must comply with the NER and B2B procedures, there is an incentive on the relevant metering coordinators to impose requirements on third party service providers through contractual arrangements that would prevent a breach of the metering coordinator's obligations under the NER or B2B procedures.

This solution could provide some safeguards to any risks from certain parties not being subject to obligations related to the B2B e-hub. However, it is preferable that these parties fall within a defined category of persons under the NER to achieve this outcome. Clear inclusion in the NER provides a framework under which appropriate obligations related to B2B arrangements may be imposed directly on these third parties. Obligations may include compliance with B2B procedures, confidentiality requirements or the payment of fees. It also provides a means by which parties can be identified and contacted by AEMO and be assigned IEC nomination and voting rights.

Third party service providers that elect to not use the B2B e-hub to provide services will not be captured by the B2B arrangements. These parties are not required to comply with B2B procedures, are not involved in the IEC processes, and are not within the scope of the cost recovery framework. The Commission considers it appropriate that third parties have the ability to 'opt-in' to the B2B framework (rather than be required to use it) at this stage because:

- It is uncertain what types of services will be provided by third party service providers and the extent to which the services should be supported through the B2B framework. The Commission is cautious of imposing unnecessary

284 For the purposes of this section, a third party service provider is a party that is providing or accessing services related to advanced meters, but is not otherwise a DNSP, retailer, local retailer, metering coordinator, metering provider, metering data provider or embedded network manager.

285 For example, the requirement to comply with B2B procedures (section 5.3.4) and a requirement to pay participant fees (section 5.5.4). Embedded network managers would also be third party B2B participants under the final rule.

286 The competition in metering final rule provides certain restrictions on who may access data available through a metering installation. See AEMC, Competition in metering final rule determination, 26 November 2015, Appendix A5.

obligations that may inhibit innovation in the market for metering services that will benefit customers.

- Given the uncertainty regarding the services that may be provided by third party service providers, it would be difficult to define the third party service providers that would be captured.
- The metering coordinator may impose any requirements it considers reasonably necessary through contractual arrangements.

5.5 Cost recovery

5.5.1 Introduction

Costs incurred in the development of B2B procedures, establishing and operating the IEC, and providing and operating the B2B e-hub were previously paid by AEMO and recouped through participant fees as determined by AEMO.²⁸⁷ These B2B related costs were previously only paid by retailers.

The final rule would result in a wider set of participants using the B2B e-hub and being required to comply with B2B procedures. In addition, there may be some significant upfront costs involved in updating the B2B framework (such as upgrading the B2B e-hub). Reviewing the cost recovery framework allows consideration of whether these costs are being recovered from the most appropriate parties under a suitable methodology.

5.5.2 Proponents' views and first round of consultation

The proponents considered that costs relating to the B2B framework should continue to be paid by AEMO and recouped through participant fees. As parties are able to agree to use an alternative to the B2B e-hub, cost recovery through participant fees provides AEMO with some certainty that it can recover its expenditure compared to a user pays framework.

However, the proponents had differing suggestions on the treatment of third party B2B participants for cost recovery.

Red and Lumo proposed that third party B2B participants be deemed to be registered participants for the purposes of rule 2.11 of the NER (participant fees). As a consequence, the fee structure for participant fees developed by AEMO could include DNSPs, retailers, metering coordinators and/or third party B2B participants. Red and Lumo proposed that AEMO have discretion to determine a suitable fee structure for registered participants.²⁸⁸

²⁸⁷ Previous NER, clause 2.11.

²⁸⁸ Red and Lumo rule change request, p. 15.

The COAG Energy Council proposed rule included a cost recovery approach that was consistent with Red and Lumo's approach. However, in its rule change request the COAG Energy Council also requested the AEMC consider whether a new category of registered participant should be introduced for third parties. It suggested that a new category of registered participant would allow appropriate, limited obligations to be imposed on these new service providers in the same way as other participants.²⁸⁹

“The entry to market and appropriate regulation of third parties is likely to be an important issue as the electricity market develops in future. A suitable registration category may be one way to future-proof the market regulatory framework. The rules currently include examples of registration categories for specific, limited purposes, including Traders and Reallocators. The registration requirements for third parties would need to be proportional to the role they will fill in the market, for example relating to a party's IT and security capabilities.”

In the first round of submissions Origin and AGL were generally supportive of expanding the cost recovery provisions so all users of the B2B e-hub would contribute to costs.²⁹⁰ EnergyAustralia noted that some parties within the B2B framework may not use the B2B e-hub initially, but would benefit from having the option to use it in the future. Consequently, costs should not only be recovered from parties that elect to use the B2B e-hub (B2B e-hub participants), but all parties within the B2B framework.²⁹¹

Energex supported the proposal that third parties be deemed to be registered participants for the purposes of cost recovery.²⁹²

Several stakeholders supported the COAG Energy Council suggestion that third parties should be registered participants. They considered that requiring these new parties to the market to be registered participants would mean that they would be bound by confidentiality and cost recovery requirements in the NER.²⁹³

AEMO also considered the B2B e-hub participant role should be a registered participant role. In AEMO's experience, an 'accreditation' process includes assessing a company's competency and credibility in providing particular services. This requires ongoing monitoring and assessment, at a cost. It considered that if third parties were to be registered participants, registered participants and accredited parties could request access to the B2B e-hub as an extension to their status.²⁹⁴

289 COAG Energy Council rule change request, p. 17.

290 Submissions to the consultation paper: Origin, p. 2; AGL, p. 4.

291 EnergyAustralia, submission to the consultation paper, p. 3.

292 Energex, submission to the consultation paper, p. 6.

293 Submissions to the consultation paper: Simply, p. 3; Red and Lumo, p. 2; CEA, p. 2; AGL, p. 4; Active Stream, p. 2; AusNet Services, p. 17.

294 AEMO, submission to the consultation paper, p. 3.

However, other stakeholders noted that requiring third parties to be registered participants could increase barriers to entry and may slow the development of new services in the market. This could ultimately disadvantage consumers.²⁹⁵ Metropolis commented that third parties could simply bypass the requirement to become a registered participant by using an alternative to the B2B e-hub. It considered there would be no incentive for third parties to be registered participants if the requirements are onerous.²⁹⁶

5.5.3 Draft rule determination and second round of consultation

The draft rule retained aspects of the existing cost recovery framework. It required that the costs arising from the development of B2B procedures, establishing and operating the IEC, and providing and operating the B2B e-hub continue to be paid by AEMO and then recovered through participant fees.²⁹⁷

Given the nature of third party B2B participants providing services to customers and the potential number of these parties in the future, the Commission considered it appropriate that third party B2B participants (except embedded network managers) be included as parties that may be charged fees under the B2B framework.²⁹⁸ This was given effect in the draft rule through deeming third party B2B participants to be registered participants for the purposes of rule 2.11 of the NER.

The cost recovery mechanism in the draft rule was generally supported by stakeholders in the second round of submissions.²⁹⁹ AEMO considered the cost recovery framework provided flexibility in the way that fees could be recovered from the most appropriate parties in the market, while providing certainty that AEMO is able to recover its costs.³⁰⁰ Origin noted that AEMO's participant fee process would determine a suitable fee structure, which could theoretically include fixed and variable components.³⁰¹

In addition, ERM agreed that embedded network managers should not be required to pay participant fees.³⁰²

²⁹⁵ Submissions to the consultation paper: United Energy, Appendix p. 9; ENA, Appendix p. 2.

²⁹⁶ Metropolis, submission to the consultation paper, p. 5.

²⁹⁷ Draft rule, clause 7.17.13(a) and 'B2B costs' in Chapter 10.

²⁹⁸ The fees to be paid by these parties would be subject to AEMO's determination of the participant fee structure.

²⁹⁹ Submissions to the draft rule determination: AGL, p. 1; EnergyAustralia, p. 4; ERM, p. 4; Active Stream, p. 1; Metropolis, p. 2; Red and Lumo, p. 7.

³⁰⁰ AEMO, submission to the draft rule determination, p. 2.

³⁰¹ Origin, submission to the draft rule determination, p. 4.

³⁰² ERM, submission to the draft rule determination, p. 4.

5.5.4 Commission's analysis and conclusions

Cost recovery framework

The final rule is largely consistent with the draft rule with regard to the cost recovery framework. However, the final rule clarifies that AEMO may recover costs related to the AEMO member through participant fees.

In coming to this determination, the Commission considered the proposals put forward by the proponents and stakeholder comments. It has also considered an alternative cost recovery solution – one that relies on user fees for the B2B e-hub. However, there are some significant issues with this alternative option.

The first issue with a user pays framework is that parties can elect not to use the B2B e-hub and in doing so, avoid B2B e-hub fees. As a result there is a risk that B2B e-hub participants cease to use the B2B e-hub over time. There is also a risk that the number of B2B e-hub participants drops to a level that the fees required for AEMO to recover its costs become prohibitively high for the remaining users. It is important that AEMO has certainty that it will be able to fully recover its costs as it will be required to pay the upfront costs of facilitating B2B communications (such as operating the B2B e-hub), developing B2B procedures and operating the IEC.

The second issue is that parties that choose not to use the B2B e-hub would still be required to comply with B2B procedures and may be involved in other IEC processes. They would be likely to benefit from expenditure on these activities, although they would not be contributing to costs. Cost recovery through participant fees instead of through B2B e-hub user fees recognises that it may be appropriate to recover some B2B costs from parties that choose not to use the B2B e-hub.

For these reasons, the Commission has concluded that cost recovery through participant fees is preferable.

Payment of fees

The final rule is consistent with the draft rule with regard to which parties may be subject to participant fees.

Under the previous framework it was appropriate that only retailers pay fees for B2B through participant fees as any costs imposed on DNSPs, metering providers and metering data providers would ultimately be passed onto the retailer, as the party responsible for charging the customer.

Under the previous cost recovery approach, metering providers and metering data providers are not registered participants and therefore cannot be charged participant fees. This is appropriate because these metering businesses provide services to other parties operating within the B2B framework and would be likely to pass any costs onto other participants through service fees.

Embedded network managers will also be accredited service providers and will not be subject to participant fees. As embedded network managers are providing market interface functions and are not providing or accessing advanced metering services for the benefit of a customer, the final rule excludes them from the cost recovery framework.³⁰³

Currently, DNSPs do not pay B2B costs through participant fees. This AEMO decision has been made because B2B communications are currently between retailers and DNSPs and any costs incurred by the DNSPs would be passed on to the retailer, who charges the customer. Once advanced metering services are available, DNSPs may wish to access these advanced services in addition to the regular communications with retailers. To the extent that DNSPs are accessing advanced services it may be appropriate for them to contribute to B2B costs in the future. This would be decided by AEMO through the process of determining participant fee structures under Chapter 2 of the NER.

Like retailers, third party B2B participants may provide services to, and directly charge, consumers. If these third parties do not contribute to B2B fees, either directly or indirectly, their use of the B2B e-hub may be cross subsidised by other users. This may not have a significant impact while there are a small number of third party B2B participants. But as the number of third parties grows and their proportional use of the B2B e-hub increases, it may be inequitable for the parties paying fees if third party B2B participants are not contributing to the costs of operating the B2B e-hub.

For these reasons, the Commission considers third party B2B participants (except embedded network managers) should be included in the group of parties that may be charged fees under the B2B framework. To implement this decision, the final rule specifies that third party B2B participants are deemed to be registered participants for the purposes of rule 2.11 of the NER. As a result, AEMO would be able to recover B2B costs by way of participant fees from third party B2B participants, in addition to registered participants.

Table 5.1 below provides a summary of the parties that may be required to pay fees under AEMO's participant fee process.

³⁰³ The final rule excludes embedded network managers from the third party B2B participants that may be required to pay participant fees. See final rule, clause 2.11.1A.

Table 5.1 Parties that may be required to pay fees under the final rule

May be required to pay fees	Not required to pay fees
DNSPs (registered participants)	Metering providers
Retailers and local retailers (registered participants)	Metering data providers
Metering coordinators (registered participants)	Embedded network managers
Third party B2B participants (deemed to be registered participants for the purposes of participant fees, except for embedded network managers)	

In general terms, clause 2.11.1(b) of the NER currently requires that participant fees, to the extent practicable, be consistent with the following principles:

- participant fees should be simple;
- participant fees should recover the budgeted revenue requirements;
- the components of participant fees charged to each registered participant should reflect the extent to which the budgeted revenue requirements involve that category of registered participant; and
- participant fees should not unreasonably discriminate between categories of registered participants.

Within this framework, there is discretion for AEMO to determine a suitable fee structure for registered participants.

The final rule provides that the B2B costs that may be recouped by AEMO through participant fees include:

- the costs of developing the B2B procedures;
- the costs of establishing and operating the IEC (including engagement costs of specialist advisers);
- the costs relating to the AEMO member's participation in the IEC; and
- the operational costs associated with any service provided by AEMO to facilitate B2B communications (including providing, maintaining, upgrading and operating a B2B e-hub).³⁰⁴

³⁰⁴ Final rule, clause 7.17.13 and 'B2B costs' in Chapter 10.

In addition, the final rule allows AEMO to impose fee payment and credit support requirements as part of the accreditation requirements for B2B e-hub participants. This provides important support for AEMO to recover its costs in line with its not for profit status. It provides some recourse for AEMO should, for example, a third party B2B participant fail to pay fees owed to AEMO.³⁰⁵

Registered participant role for third parties

The Commission does not consider third party service providers³⁰⁶ should be required to be registered participants, as proposed by the COAG Energy Council, at this time. Being a registered participant attracts certain rights and obligations under the NER, including:

- participation in the dispute resolution process;³⁰⁷
- confidentiality obligations with respect to confidential information;³⁰⁸ and
- reporting requirements as determined by the AER.³⁰⁹

In addition to these rights and obligations, parties in each class of registered participant also have particular rights and obligations that are specific to their respective roles in the market.

Creating a registered participant role for third party service providers as proposed would require all third party service providers seeking access to the meter through a metering coordinator to become a registered participant. As a result, classification as a registered participant would apply to third parties whether or not they intend to use the B2B e-hub.

There may be value in applying some of the general requirements that apply to registered participants to third party service providers. However, it is not yet clear what the role of third party service providers will be in the market or what additional obligations should reasonably apply. The Commission is cautious in imposing unnecessary requirements on third parties that may deter market entry and stall the development of new innovative services for the benefit of consumers.

For this reason, the final rule only imposes obligations on third party service providers related to their involvement in business communications within the B2B framework, which is the focus of this rule change. For example, third parties will be required to comply with B2B procedures should they elect to become an accredited B2B e-hub

³⁰⁵ Final rule, clause 7.17.2(c)(2).

³⁰⁶ For the purposes of this section, a third party service provider is a party that is providing or accessing services related to advanced meters, but is not otherwise a DNSP, retailer, local retailer, metering coordinator, metering provider, metering data provider or embedded network manager.

³⁰⁷ Previous NER, clause 8.2.

³⁰⁸ Previous NER, clause 8.6.1(b).

³⁰⁹ Previous NER, clause 8.7.2(e).

participant.³¹⁰ Effectively, third party service providers are able to opt-in to the B2B framework and in doing so, these parties may then be required to pay fees.

This final rule determination does not preclude reconsidering whether a fuller registered participant role is suitable for certain third party service providers at a later date through a separate rule change process, if it is considered to be necessary.

³¹⁰ Under the final rule, third party B2B participants are also required to comply with confidentiality provisions and are able to access dispute resolution.

6 Implementation

Box 6.1 Final rule determination

The final rule amends the NER as follows:

- on 30 June 2016 to set up an interim B2B framework that will operate until the substantive aspects of the new B2B framework are introduced on 1 December 2017 and in order to introduce certain transitional arrangements; and
- on 1 December 2017 to provide for the full introduction of the B2B framework at the same time as the commencement of the new framework for competition in metering.

The key implementation steps and transitional arrangements under the final rule include:

- the IEC is dissolved on 30 June 2016;
- the B2B procedures as in force immediately before the final rule was made, remain in force until the substantive aspects of the B2B framework are introduced in December 2017;
- AEMO must develop and publish new IEC election procedures and operating manual by 1 August 2016;
- AEMO must establish a new IEC in accordance with the transitional rules and IEC election procedures by 1 September 2016;
- the new IEC must recommend changes to the B2B procedures by 1 May 2017 to take into account the final rule, the competition in metering final rule and the embedded networks final rule;
- AEMO must publish the new B2B procedures within 20 business days of the IEC recommendation;
- AEMO must establish and publish information in respect of the process for accreditation as a B2B e-hub participant by 1 June 2017; and
- new B2B procedures will commence on 1 December 2017.

6.1 Introduction

This chapter sets out the timetable for implementing the new B2B framework under the final rule and the related transitional arrangements that will need to be undertaken by AEMO and industry.

The process for implementing the new B2B framework under the final rule is complex and involves multiple staged amendments to the NER. More specifically, it includes changes to a number of chapters of the NER on the date the rule is made (30 June 2016) and subsequently on 1 December 2017. This is necessary to provide for a transitional period between these two dates (transitional period). During this time certain transitional steps must be completed, including the development of new B2B procedures by a new IEC. In addition, some of the staged amendments to the NER are necessary to align the commencement of the new B2B framework with the introduction of the new frameworks under the competition in metering final rule and embedded networks final rule.

Implementation and transitional arrangements are set out in sections 6.4 and 6.5 below.

6.2 Proponents' views

Both proponents provided a list of steps and timeframes for implementing new B2B arrangements by 1 December 2017. The COAG Energy Council considered it desirable that the B2B market reforms are aligned with the commencement of competition in metering.

Assuming a final rule determination was made by May 2016, the tasks and timeframes identified by the proponents included:³¹¹

- AEMO developing new IEC election procedures and IEC operating manual to provide for the new framework (by 1 August 2016).
- AEMO conducting an IEC election process to establish the new IEC (by 1 October 2016).
- The new IEC updating the B2B procedures in accordance with the new framework (by 1 April 2017).
- AEMO updating the B2B e-hub to comply with new B2B procedures, although Red and Lumo noted that as the IT service provider, AEMO can choose at any time to commence consultation and development of a new B2B e-hub.
- Integration testing of the B2B e-hub with industry systems and processes.
- AEMO developing an accreditation process for B2B e-hub participants (by 1 April 2017).

³¹¹ Red and Lumo rule change request, p. 16; COAG Energy Council rule change request, pp. 18-19.

- AEMO amending its participant fee structure to include new parties in the recovery of B2B costs.

The COAG Energy Council also requested the AEMC consider options to minimise the effort needed for a new IEC to adopt the existing B2B procedures, so they are transitioned as necessary and are available at the start of the new framework under the final rule for competition in metering.

6.3 Stakeholder views

Stakeholders expressed a wide range of views on implementation issues in the first round of consultation and then again in the second round of consultation. The similar nature of issues raised reflects that there are certain unavoidable challenges in introducing a new B2B framework by 1 December 2017.

Commencement date

Stakeholders generally agreed that the B2B framework should be updated before the commencement of the new framework for metering services under the competition in metering final rule on 1 December 2017. Standardised communications are considered necessary by many stakeholders for the delivery of some services in a safe and timely manner, and to maximise benefits and efficiencies for consumers.³¹² Many participants anticipate a need to offer or access advanced services when competition in metering commences. As articulated by ERM, if a shared platform is not available participants will develop their own communication methods, which would later diminish the value of creating a shared platform.³¹³

Some stakeholders were concerned that the proposed limited timeframes could lead to resourcing issues, sub-optimal outcomes and higher costs for industry. For these reasons, some stakeholders suggested delaying the commencement of the competition in metering final rule to allow more time to enable a more efficient implementation of the B2B framework. A commencement date of between mid-2018 and December 2018 was put forward as more achievable. However, some DNSPs also noted that this would delay benefits to consumers that are expected from the new competition in metering framework.³¹⁴

Vector strongly disagreed with this view. It noted that parties can use existing industry processes to provide advanced metering services with appropriate agreements in place. As a result, meeting a target commencement date of 1 December 2017 for a new B2B framework was not critical. Vector considered that if implementation timeframes

³¹² Submissions to the consultation paper: United Energy, Appendix p. 10; Energex, p. 8; Ausgrid, p. 3; AusNet Services, p. 7. Submissions to the draft rule determination: AGL, p. 4; Vector, p. 2; Red and Lumo, p. 8.

³¹³ ERM, submission to the consultation paper, p. 3.

³¹⁴ Submissions to the consultation paper: EnergyAustralia, p. 4; Energex, p. 8; AusNet Services, p. 12; ENA, p. 2. Submissions to the draft rule determination: Energex, p. 8; ENA, p. 6; Ergon Energy, p. 2.

are delayed, participants could manage their position more effectively if they were required to 'opt-in' to the B2B framework, instead of being able to 'agree to an alternative' to the B2B e-hub. Participants would not need to have their own processes in operation by 1 December 2017.³¹⁵ EDMI noted that lessons from early commercial providers of data delivery systems could be incorporated into the new B2B framework if it were delayed.³¹⁶

IEC election procedures and operating manual

In the first round of consultation there was some support for AEMO commencing work on the new IEC election procedures and IEC operating manual following the publication of a draft rule determination.³¹⁷ EnergyAustralia suggested that, given the AEMO member was also the IEC chairperson, there should be some oversight of the process by an independent party, such as the AEMC.³¹⁸ As an alternative, United Energy suggested that the current IEC begin work on developing the new IEC election procedures and IEC operating manual.³¹⁹

In response to the draft rule determination, several stakeholders suggested that the IEC election procedures and operating manual developed by AEMO should be subject to a vote by B2B parties. They considered that the risk of these documents being rejected would be minimal if AEMO consulted widely and appropriately.³²⁰ In addition, Red and Lumo sought clarification on whether the AEMO's decision on the IEC election procedures and operating manual would be subject to dispute resolution.³²¹

Several stakeholders also made suggestions on when to establish the IEC. Some considered that a new IEC could be in place within a month of the final rule determination (or by 1 August 2016).³²² Red and Lumo considered the IEC should be established within five weeks of the IEC election procedures being published. This would allow enough time for nominations, voting and establishment of the new members, while still placing pressure on industry and AEMO to agree to the IEC election procedures.³²³

³¹⁵ Vector, submission to the consultation paper, pp. 4-5.

³¹⁶ EDMI, submission to the consultation paper, p. 5.

³¹⁷ Submissions to the consultation paper: Simply Energy, p. 3; Origin, p. 4; AusNet, p. 10.

³¹⁸ EnergyAustralia, submission to the consultation paper, p. 3.

³¹⁹ United Energy, submission to the consultation paper, Appendix p. 5. AEMO released a 'draft IEC election procedure and operating manual' for consultation from 10 June to 24 June 2016. The content of these documents was based on the draft rule. See <http://www.aemo.com.au/Consultations/National-Electricity-Market/Draft-IEC-Election-Procedure-and-Operating-Manual-for-Consultation>.

³²⁰ Submissions to the draft rule determination: AEC, p. 2; EnergyAustralia, p. 4; United Energy, p. 9; Red and Lumo, p. 9.

³²¹ Red and Lumo, submission to the draft rule determination, p. 8.

³²² AusNet Services, submission to the consultation paper, p. 10. Submissions to the draft rule determination: AGL, p. 4; Active Stream, p. 2.

³²³ Red and Lumo, submission to the draft rule determination, p. 9.

Vector, Red and Lumo supported the cessation of the IEC on commencement of the rule. They considered that having two IECs operating would create confusion and additional costs.³²⁴

Developing B2B procedures

Meeting the proposed timeframes for B2B procedure development may be challenging. Several stakeholders suggested options to increase the likelihood that the timeframes could be met:

- Red and Lumo suggested the existing IEC should begin work on the new B2B procedures immediately. This work would be handed over to the new IEC once elected, to finalise the process.³²⁵
- DNSPs suggested that the existing IEC develop new B2B procedures under the new B2B framework. The IEC could consult widely through open meetings and workshops. The new IEC would take over in early 2017 once the B2B procedures are finalised.³²⁶
- ECA considered it important to maintain corporate knowledge and minimise disruption during this transition period. It suggested that new member categories be elected immediately and join the existing IEC. Then at a later date the retailer, DNSP and independent members would be replaced.³²⁷

In addition, some retailers suggested that a 'minimal' set of B2B procedures could be implemented for 1 December 2017 so long as there is a clear plan to introduce the other desired services (that is, a staged process).³²⁸ However, several DNSPs strongly considered that a 'minimal' set of procedures must include the services that are widely used by DNSPs, such as load control, NMI supply failure notification and network service line safety management.³²⁹

Some of these views were re-iterated in the second round of consultation. There was general stakeholder agreement that, to meet implementation timeframes, the IEC would have to prioritise certain services to be supported by the B2B procedures and this would result in a staged implementation approach. However, DNSPs commented that a staged approach may result in additional costs and providing some services manually (as opposed to automated).³³⁰ Some retailers and DNSPs considered the IEC should be able to prioritise other 'critical' services over the services in the minimum

³²⁴ Submissions to the draft rule determination: Vector, p. 1; Red and Lumo, p. 8.

³²⁵ Red and Lumo, submission to the consultation paper, p. 6.

³²⁶ Submission to the consultation paper: Ergon, p. 4; United Energy, Appendix p. 3; ENA, p. 1; Ausgrid, p. 2.

³²⁷ ECA, submission to the consultation paper, p. 3.

³²⁸ Submissions to the consultation paper: ERM, p. 4; EnergyAustralia, p. 5; Origin, p. 4.

³²⁹ Submissions to the consultation paper: Energex, p. 9; AusNet, pp. 3-5.

³³⁰ Submissions to the draft rule determination: Energex, p. 9; ENA, p. 6; United Energy, p. 5; IEC, p. 3; Ergon Energy, p. 3.

services specification.³³¹ It was also suggested that the IEC should be able to set a work program post 1 December 2017 for the development of non-priority services, including the services in the minimum services specification that are not critical.³³² Metropolis and Vector opined that such a prioritisation exercise would involve trade-offs. However, the IEC would be the most appropriate body to decide what can be built in the available time and which services are critical to support the competition in metering and embedded networks final rules.³³³

A number of stakeholders opposed reducing consultation requirements in order to meet the proposed implementation timeframes, preferring a transparent and robust process.³³⁴ Other stakeholders supported a shortened consultation process where practicable to expedite the B2B procedures, for example where there was general support from stakeholders on a topic. Red and Lumo suggested that this approach could involve shortening the consultation timeframes while but still having two rounds of consultation. Origin considered that while reducing consultation requirements was not ideal, it was a good way to assist with meeting the implementation timeframes.³³⁵

More specific suggestions were that AEMO's obligation to publish the B2B procedures should be 'within one month' of an IEC recommendation instead of a set date. This would "maximise industry certainty and minimise any unnecessary administrative delays".³³⁶ United Energy did not consider a month was necessary and suggested that the date of publication be reduced to two days following an IEC recommendation.³³⁷

Some stakeholders also considered that the IEC should be able to make adjustments to the B2B procedures following publication, for example where a critical change is identified through the IT build and testing phase. They suggested that this could be done through a shortened consultation process.³³⁸

331 Submissions to the draft rule determination: AGL, p. 4; EnergyAustralia, p. 4; Ergon Retail, p. 1; ENA, p. 7; United Energy, pp. 6, 8.

332 Submissions to the draft rule determination: AGL, p. 4; ENA, p. 8.

333 Submissions to the draft rule determination: Metropolis, p. 3; Vector, p. 2.

334 Submissions to the consultation paper: ERM, p. 4; United Energy, Appendix p. 13; ENA, Appendix p. 3; Energex, p. 9; AusNet Services, p. 20; Metropolis, p. 5. United Energy, submission to the draft rule determination, p. 7.

335 Submissions to the consultation paper: Origin, p. 4; Simply Energy, p. 4. Submissions to the draft rule determination: AEC, p. 2; Red and Lumo, p. 9.

336 Submissions to the draft rule determination: AEC, p. 2; EnergyAustralia, p. 5; Active Stream, p. 2; Red and Lumo, p. 9.

337 United Energy, submission to the draft rule determination, p. 7.

338 Submissions to the draft rule determination: EnergyAustralia, p. 5; United Energy, p. 7; Red and Lumo, p. 8.

Internal processes and IT

Stakeholders generally considered that industry would need approximately 12 months to develop new internal processes and systems following the publication of the revised B2B procedures prepared by the new IEC.³³⁹ As a result, the new B2B procedures would need to be published by December 2016.³⁴⁰ Most stakeholders explicitly stated they would not begin developing or amending their internal processes until a final B2B procedure was published.³⁴¹ However, some smaller retailers indicated that they would be willing to begin work following publication of draft B2B procedures, in order to meet implementation timeframes.³⁴²

In general, Metropolis and some retailers considered the timeframes are achievable, although Metropolis noted that it is potentially in a better position than some other stakeholders.³⁴³ On the other hand, ENA considered that the implementation dates may not be achievable. It considered that there was not enough time for industry building and testing, and that to implement the new B2B framework in the timeframes specified, industry participants would need to begin investing at the draft procedure stage.³⁴⁴

Ausgrid considered that it would need three to four months to test its systems with a finalised B2B e-hub.³⁴⁵ ERM noted that the technical aspects of implementation are the greatest risk to meeting the target of 1 December 2017.³⁴⁶

In regard to the potential redevelopment of the B2B e-hub, several stakeholders considered it to be independent of B2B procedure development and could begin immediately.³⁴⁷ Some noted that certain decisions related to B2B e-hub technology may affect the implementation timeframes for this rule change. For example, if the B2B e-hub includes 'backwards compatible' technology, some participants may not need to update their internal systems at all.³⁴⁸ AusNet Services suggested that AEMO should be required to determine the nature of any changes to the B2B e-hub by September 2016 to enable dependent decisions to be made.³⁴⁹

339 Submissions to the consultation paper: ERM, p. 4; EnergyAustralia, p. 5; United Energy, Appendix p. 10; Energex, p. 8. Submissions to the draft rule determination: AGL, p. 4; EnergyAustralia, p. 5; Energex, p. 9; ENA, p. 5; United Energy, pp. 5, 7; IEC, p. 2.

340 Submissions to the consultation paper: Ergon, p. 3; United Energy, Appendix p. 10.

341 Submissions to the consultation paper: EnergyAustralia, p. 5; ENA, p. 2; Energex, p. 9.

342 Simply Energy, submission to the consultation paper, p. 4.

343 Metropolis, submission to the consultation paper, p. 5. Submissions to the draft rule determination: AGL, p. 4; AEC, p. 2; Origin, p. 5; Metropolis, p. 2.

344 ENA, submission to the draft rule determination, pp. 5-6.

345 Ausgrid, submission to the consultation paper, p. 1.

346 ERM, submission to the consultation paper, p. 4.

347 Submissions to the consultation paper: Simply, p. 3; Red and Lumo, p. 5; CEA, p. 2.

348 Submissions to the consultation paper: ERM, p. 4; EDMI, p. 5.

349 AusNet Services, submission to the consultation paper, p. 13.

Other

DNSPs proposed that a project management office be established to coordinate implementation³⁵⁰ and a 'readiness review' be carried out in mid-2017 to identify and manage barriers to implementation.³⁵¹

6.4 Implementation

The final rule provides for amendments to the NER that commence on:

- 30 June 2016, which comprise of amendments to Chapters 7, 8 and 11 of the NER (and consequential changes to Chapter 10 to amend and insert definitions) that provide for an interim B2B framework that will operate until the substantive aspects of the new B2B framework are introduced;³⁵² and
- 1 December 2017, which comprise of amendments to Chapters 2, 7 and 8 of the NER (and consequential changes to Chapter 10 to amend and insert definitions) that provide for the introduction of the new B2B framework at the same time as the new framework for competition in metering is introduced.³⁵³

A multi-staged process for the introduction of the new B2B framework is necessary to provide for, among other things, the development of new B2B procedures during the transitional period between when the IEC is dissolved and the new B2B framework is implemented. A multi-staged process is also necessary for the new B2B framework to align with the introduction of amendments under the competition in metering final rule and embedded networks final rule on 1 December 2017. The key transitional requirements are outlined in section 6.5 below.

This section sets out the implementation arrangements under the final rule, including:

- an overview of the changes to the NER on 30 June 2016;
- an overview of the changes to the NER on 1 December 2017; and
- the Commission's analysis and conclusions on these issues.

³⁵⁰ Submissions to the draft rule determination: ENA, p. 8; Ergon Energy, p. 4; United Energy, p. 3.

³⁵¹ Submissions to the consultation paper: ENA, p. 4; Energex, p. 9; AusNet Services, p. 11.
Submissions to the draft rule determination: Ausgrid, p. 1; ENA, p. 8; Ergon Energy, p. 4.

³⁵² Final rule, Schedules 1 and 5.

³⁵³ Final rule, Schedules 2, 3 and 4.

6.4.1 Changes to the NER on 30 June 2016

The following changes to the NER commenced on 30 June 2016, the date the final rule was made.³⁵⁴

1. Amendments to Chapter 7 of the NER to:
 - (a) Remove the provisions related to the establishment, maintenance and operation of the IEC. The IEC ceased to operate on the date the final rule was made. A new IEC will be established at a later date under transitional provisions (described in section 6.5). The Commission considers it preferable not to have two IECs operating concurrently for the reasons set out below.
 - (b) Remove provisions relating to making amendments to the B2B procedures. A transitional provision provides that B2B procedures as in force immediately prior to the commencement of Schedule 1 the final rule ('existing B2B procedures') continue in force (without amendment) until revised B2B procedures that take into account the final rule, competition in metering final rule and embedded networks final rule commence on 1 December 2017.³⁵⁵
 - (c) Retain the existing requirements that AEMO, local retailers, market customers, DNSPs, metering providers and metering data providers must comply with the existing B2B procedures and use the B2B e-hub for B2B communications as required by B2B procedures. This clarifies that ongoing compliance with the existing B2B procedures up to 1 December 2017 is required.
2. Chapter 8 of the NER was amended to remove the existing B2B determination dispute resolution provisions in rule 8.2A. This is consequential to the changes to Chapter 7 of the NER noted above.
3. Chapter 11 of the NER was amended to remove certain transitional provisions introduced under the competition in metering and embedded networks final rules³⁵⁶ that are no longer necessary or appropriate as timeline for revising B2B procedures has been extended. Under the B2B transitional arrangements introduced under the final rule, a new IEC will be established and be required to recommend changes to the B2B procedures (with such changes becoming effective on 1 December 2017) by no later than 1 May 2017 (see section 6.5).

³⁵⁴ Final rule, Schedule 1.

³⁵⁵ Final rule, Schedule 1 and clauses 11.91.2 and 11.91.5.

³⁵⁶ Competition in metering final rule, clauses 11.86.6(e)-(f) and 11.86.7; embedded networks final rule, clauses 11.87.2(b)-(c).

6.4.2 Changes to NER on 1 December 2017

The following key changes to the NER will commence on 1 December 2017:³⁵⁷

1. The new B2B framework will be introduced into Part H of Chapter 7 of the NER (rule 7.17), with certain consequential amendments made to Chapters 2 and 10 of the NER.
2. The B2B determination dispute provisions previously set out in rule 8.2A would be reintroduced in Chapter 8 of the NER with certain amendments to reflect the new B2B framework.

6.4.3 Commission's analysis and conclusions

Aligning commencement with the new competition in metering framework

It is not necessarily vital that the B2B framework be updated for the commencement of the competition in metering framework, as an alternative would be for parties to determine their own form and manner for communications. Nevertheless, it is preferable that these market reforms commence at the same time. The final rule provides for an agreed set of communications to facilitate at a minimum the services in the minimum services specification, to support parties who wish to provide or access these services. Providing for an agreed form of communication from the day these services are available is likely to maximise benefits and efficiencies for participants and consumers. It will also enable B2B procedures to provide for communications between a wider group of participants.

With regard to the ability of industry to meet the implementation timeframes, the Commission considers the final rule provides sufficient flexibility for the IEC to determine suitable changes to the B2B procedures that meet the requirements in this final rule within the given timeframes. This is discussed further in section 6.5.

'Freezing' the existing B2B procedures and cessation of the current IEC

As discussed above, the final rule provides that the existing B2B procedures will continue in force (without amendment) until revised B2B procedures commence on 1 December 2017. In addition, the IEC was dissolved on 30 June 2016.

A potential issue raised by stakeholders was that if new changes were requested in respect of the existing B2B procedures in force between 30 June 2016 and 1 December 2017, the final rule would need to provide arrangements to support this. Specifically:

- that two IECs could operate in parallel. The previous IEC and procedure change process would need to continue to operate in force in case a change to the existing B2B procedures was proposed. Concurrently, the new IEC would

³⁵⁷ Final rule, Schedules 2, 3 and 4.

develop a recommendation to change the B2B procedures (to be effective on 1 December 2017) to satisfy requirements in the final rule; or

- the new IEC could process requests related to existing B2B procedures in addition to its transitional work in developing changes to B2B procedures that would be effective on 1 December 2017. This would require the new IEC to consider change proposals relating to B2B procedures against a different set of decision making criteria and in accordance with a different decision making process.

As stated previously, neither the Commission nor stakeholders consider it desirable for two IECs to operate at the same time. Such an arrangement would be an unnecessary financial and administrative burden on the resources of AEMO and industry and may give rise to uncertainty in respect of the respective roles of the two groups.

Nor is it preferable that a new IEC make decisions about existing B2B procedures and new B2B procedures under two different sets of decision making criteria. These arrangements would be complicated, potentially confusing and create an unnecessary administrative burden for the new IEC as well as AEMO and industry participants.

In addition:

- While there is a possibility that a party may wish to propose a change to the existing B2B procedures during this time, the Commission considers the likelihood of this occurring is sufficiently small. There is an 18 month period between publication of this final rule determination and 1 December 2017 in which changes to the existing B2B procedures would not be possible. B2B procedures have been typically amended one to two times per year.³⁵⁸ In addition, parties will likely be involved in the B2B procedure change process and not focussed on the existing B2B procedures.
- Given the time required to undergo a B2B procedure change process, any requests to amend the existing B2B procedures during the transition period would likely lead to a change to the existing B2B procedures that would only be in force for a short period of time before the commencement of new B2B procedures on 1 December 2017. Even if the ability to change the existing B2B procedures were available, the benefits would be low.
- The costs involved in retaining the change processes for existing B2B procedures and the risks and administrative complexity for the new IEC and other parties outweigh the limited potential benefits from changing the existing B2B procedures during the transitional period.

Accordingly, the Commission has concluded that one IEC should be operational at any time and that the existing B2B procedures remain in place without amendment during the transitional period.

³⁵⁸ See the document history table in the B2B procedures available on the AEMO website.

During this period the new IEC will recommend changes to the B2B procedures to take into account the final rule, the competition in metering final rule and the embedded networks final rule.³⁵⁹

Keeping the existing B2B procedures unchanged during the period in which new B2B procedures are developed will create greater clarity for participants on the role of the IEC in the lead-up to 1 December 2017. It will also allow for consultation during that period to be focussed on the development of the new B2B procedures, rather than any incremental short term changes to the existing B2B procedures. Developing B2B procedures to take into account the final rule will be a significant workload and so the new IEC should not be required to respond to additional B2B procedure change requests by industry during this transition period.

B2B determination disputes

Under the final rule, the B2B determination dispute provisions³⁶⁰ are removed during the transitional period. There will be no amendments to the existing B2B procedures in force during the transitional period, so a dispute resolution process is not required for this purpose.

Dispute resolution under rule 8.2 is also not available for the new IEC election procedures and operating manual under the transitional rules³⁶¹ and the development of the new B2B procedures under the transitional rules.³⁶² The Commission considers that this is appropriate given the tight implementation timeframes and the need for certainty that there will be no changes to these procedures during the transitional period. If necessary, these procedures may be amended after 1 December 2017 in accordance with the processes set out in the final rule.

However, judicial review is available with regard to these decisions. In addition, the IEC may recommend minor and administrative changes to the B2B procedures that would commence on 1 December 2017 during the transitional period.³⁶³

6.5 Transitional requirements

This section provides a summary of the key transitional arrangements in the final rule.³⁶⁴ This includes details of the steps that must be undertaken by AEMO and the new IEC during the transitional period between 30 June 2016 and 1 December 2017.

³⁵⁹ Final rule, clause 11.91.5(a).

³⁶⁰ Previous NER, rule 8.2A.

³⁶¹ Final rule, clause 11.91.3.

³⁶² Final rule, clause 11.91.5.

³⁶³ Final rule, clause 11.91.5(d).

³⁶⁴ Final rule, Schedule 5.

6.5.1 Key transitional steps for AEMO and the IEC

The key transitional steps are as follows:

- The current IEC was dissolved on 30 June 2016.
- The B2B procedures as in force immediately prior to the date the final rule was made will continue in force (without amendment) until revised B2B procedures, that take into account the final rule, the competition in metering final rule and the embedded networks final rule, commence on 1 December 2017.³⁶⁵
- By 1 August 2016, AEMO must develop and publish new IEC election procedures and operating manual to be consistent with the final rule. AEMO must consult with DNSPs, retailers, local retailers, metering providers and metering data providers on the form of the IEC election procedures and operating manual prior to publishing the documents.³⁶⁶
- By 1 September 2016, AEMO must establish the new IEC in accordance with clauses 7.17.6(b), 7.17.10 and 7.17.11(a) and (d) of the final rule and the IEC election procedures and operating manual (as in force on 1 August 2016).³⁶⁷
 - The new IEC's primary role will be to develop and consult on recommended changes to the B2B procedures to commence on 1 December 2017.³⁶⁸
- By 1 May 2017, the new IEC must make an IEC recommendation to change the B2B procedures to be consistent with the final rule. This is the latest possible date for this recommendation and the new IEC could decide to make a recommendation at an earlier date.³⁶⁹
 - The new IEC is required to follow the consultation process set out in clause 7.17.4(i) to (r) of the final rule in respect of such recommendation. The new IEC's recommendation must propose that changes to the B2B procedures commence on 1 December 2017. As noted earlier, participants will not be able to dispute this IEC recommendation through the B2B determination dispute resolution process previously in Chapter 8 of the NER. The decision would, however, be subject to judicial review.

³⁶⁵ Final rule, clause 11.91.2.

³⁶⁶ Final rule, clause 11.91.3. AEMO is not required to comply with the rules consultation procedures for the purposes of this consultation. In addition, consultation undertaken prior to the commencement date of the final rule for the purposes of developing the IEC election procedures and operating manual is taken to form part of the consultation required under this clause.

³⁶⁷ Final rule, clause 11.91.4(a).

³⁶⁸ The new IEC may also make minor and administrative changes to the new B2B procedures, establish IEC working groups and develop IEC working group work programmes. Final rule, clause 11.91.4(d).

³⁶⁹ Final rule, clause 11.91.5.

- Within 20 business days of the IEC recommendation, AEMO must publish new B2B procedures (subject to its limited veto right under clause 7.17.5(b) of the final rule).³⁷⁰
 - AEMO would need to redevelop the B2B e-hub to the extent necessary to reflect the new procedures by 1 December 2017.³⁷¹
- By 1 June 2017, AEMO must also establish and maintain an accreditation process for B2B e-hub participants. It must publish information relating to the process by which parties can apply to be accredited as B2B e-hub participants under clause 7.17.2 of the final rule.³⁷²
- The new IEC must prepare an annual report for the year ending 31 December 2016 in accordance with the IEC operating manual, and a draft and final budget for the financial year ending 30 June 2018 in accordance with clause 7.17.7(d) of the final rule.³⁷³
- On 1 December 2017, the new B2B procedures would commence operation and the redeveloped B2B e-hub would be operational. The B2B procedures would be subject to change in accordance with the procedure change process under the new B2B framework.
- The IEC established under the transitional arrangements would continue in effect until the membership is changed in accordance with the IEC election procedures. This may occur after 1 December 2017.

The table and figure below provide a summary of the key implementation tasks and the relevant parties responsible.

³⁷⁰ Final rule, clause 11.91.5(b). In the draft rule determination this was required by 1 June 2017. The Commission has made this change to clarify that, if the IEC makes a recommendation at a date earlier than 1 May 2017, AEMO must publish the new B2B procedures within 20 business days (approximately one month).

³⁷¹ This is required by nature of the B2B e-hub being required to facilitate B2B communications in accordance with the B2B procedures on 1 December 2017, the date the B2B procedures will commence.

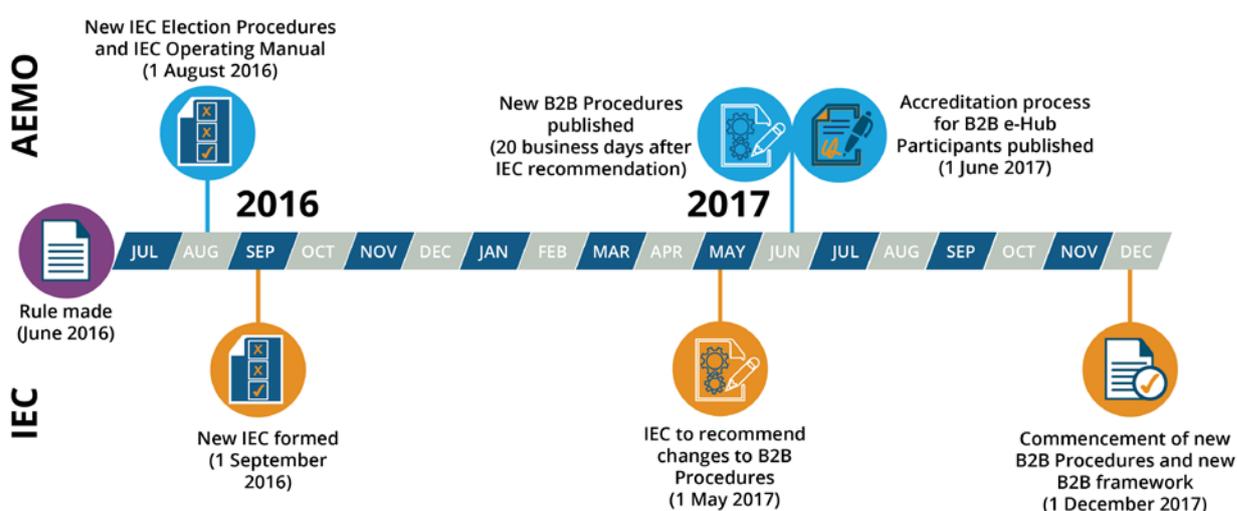
³⁷² Final rule, clause 11.91.6.

³⁷³ Final rule, clause 11.91.7.

Table 6.1 Key implementation tasks

Party	Task	Date
AEMO	Develop and publish new IEC election procedures and IEC operating manual.	By 1 August 2016
AEMO	Establish the new IEC	By 1 September 2016
IEC	Recommend a change to B2B procedures to be consistent with the final rule.	By 1 May 2017
AEMO	Publish B2B procedures that are consistent with the final rule.	Within 20 business days of the IEC recommendation
AEMO	Establish an accreditation process for B2B e-hub participants and publish information relating to the process for becoming an accredited B2B e-hub participant.	By 1 June 2017

Figure 6.1 Implementation tasks for AEMO and the IEC



6.5.2 Commission's analysis and conclusions

Meeting the implementation timeframes

As outlined in section 6.4, the Commission considers it important that the substantive provisions of this final rule commence at the same time as the new competition in metering framework. Some stakeholders have expressed certain concerns with meeting the implementation timeframes. However, the final rule provides suitable flexibility for the IEC to decide on the B2B procedures that can be implemented within the given timeframes.

The new IEC has several options with regard to meeting its obligations under the transitional arrangements to update the B2B procedures to accommodate the final rule. It may decide:

- to recommend minimal changes to the B2B procedures, by only making those changes required to include B2B communications that support the services in the minimum services specification and other services that are agreed to be vital services. B2B communications to support further services could be added through a B2B procedure change process at a later date after 1 December 2017; or
- to recommend changes to B2B procedures that include B2B communications that support a wide range of commonly used services (including the services in the minimum services specification). B2B communications to support new services could be added through a B2B procedure change process at a later date.

Under the final rule, the B2B e-hub must be capable of facilitating B2B communications in accordance with the B2B procedures.³⁷⁴ As a consequence, if the B2B procedures provide for a particular communication to be made through the B2B e-hub, the B2B e-hub must be able to facilitate that B2B communication as soon as the new B2B procedure commences. The IEC will also need to consider whether the B2B procedures will include performance requirements for the B2B e-hub, and take into account the timeframes needed by AEMO and industry to develop internal processes or IT systems to comply with the B2B procedures.

This means that if the IEC develops B2B procedures that include B2B communications through the B2B e-hub, or performance requirements for the B2B e-hub, the B2B e-hub will need to provide these from the commencement date for the changes to the B2B procedures (1 December 2017). As AEMO is responsible for providing the B2B e-hub, the IEC is expected to work closely with AEMO so that any IT changes that need to be carried out by AEMO and industry are aligned with the commencement date for the changes to the B2B procedures.

In general, it may not always be necessary for AEMO and participants to develop new IT systems and processes in order to send a B2B communication. This is because the B2B procedures may allow for a method of communication that does not use the B2B e-hub to be used if the IEC considers it to be appropriate for that particular communication. On such occasions, the B2B e-hub will not need to be updated to be capable of providing that particular communication.³⁷⁵

Accordingly, the IEC has several options regarding implementation during the transition period for the final rule:

³⁷⁴ Final rule, clause 7.17.1(b)

³⁷⁵ Final rule, clauses 7.17.1(b) and (e). The B2B e-hub is required to have the capability to facilitate B2B communications in accordance with the B2B procedures and parties must use the B2B e-hub for B2B communications in accordance with the B2B procedures. The Commission notes that the requirement for certain parties to use the B2B e-hub for B2B communications in accordance with the B2B procedures is reflected in clause 7.2A.1 of the previous NER.

- If the IEC considers that updates to the B2B e-hub will be required by 1 December 2017 in order to comply with the revised B2B procedures, it will need to develop B2B procedures allowing sufficient time for AEMO and industry participants to develop the associated IT requirements. In this case, the IEC may recommend, and AEMO may publish, B2B procedures at a much earlier date than required under the final rule.
- Alternatively, the IEC may decide to not require certain new B2B communications be made through the B2B e-hub. Instead, these new communications could be made by other means for an interim period from 1 December 2017. This arrangement could remain in place until further changes to B2B procedures and new IT are developed at a later date.

IEC making multiple sets of procedures

Under the final rule, the IEC is required to recommend new B2B procedures that satisfy the requirements in the final rule no later than 1 May 2017. Any further changes must be carried out in accordance with the procedure change process set out in the final rule after 1 December 2017.

Some stakeholders raised concerns that issues may be identified during the testing phase that require changes to B2B procedures that would commence on 1 December 2017.³⁷⁶ The Commission considers that if issues are identified while industry participants are testing their systems and processes, it may not be possible to amend the B2B procedures for 1 December 2017 given the timing requirements for the new IEC to consider and develop another IEC recommendation. In addition, it may create uncertainty for industry participants if the B2B procedures can be amended multiple times prior to 1 December 2017.

The Commission considers it preferable that this risk is minimised by requiring the B2B procedures to be developed in accordance with the rules consultation procedures as modified under the final rule. This arrangement will provide industry participants with multiple opportunities to consult on the B2B procedures and allowing them to focus on implementation for 1 December 2017 rather than manage additional B2B procedure changes during the transitional period.

However, the IEC is able to make 'minor and administrative' changes to the new B2B procedures during the transitional period. In addition, the IEC may establish IEC working groups and set a work program for the transitional period.³⁷⁷

³⁷⁶ Submissions to the draft rule determination: EnergyAustralia, p. 5; United Energy, p. 7; Red and Lumo, p. 8.

³⁷⁷ Final rule, clause 11.91.5.

B2B amendments developed by the previous IEC

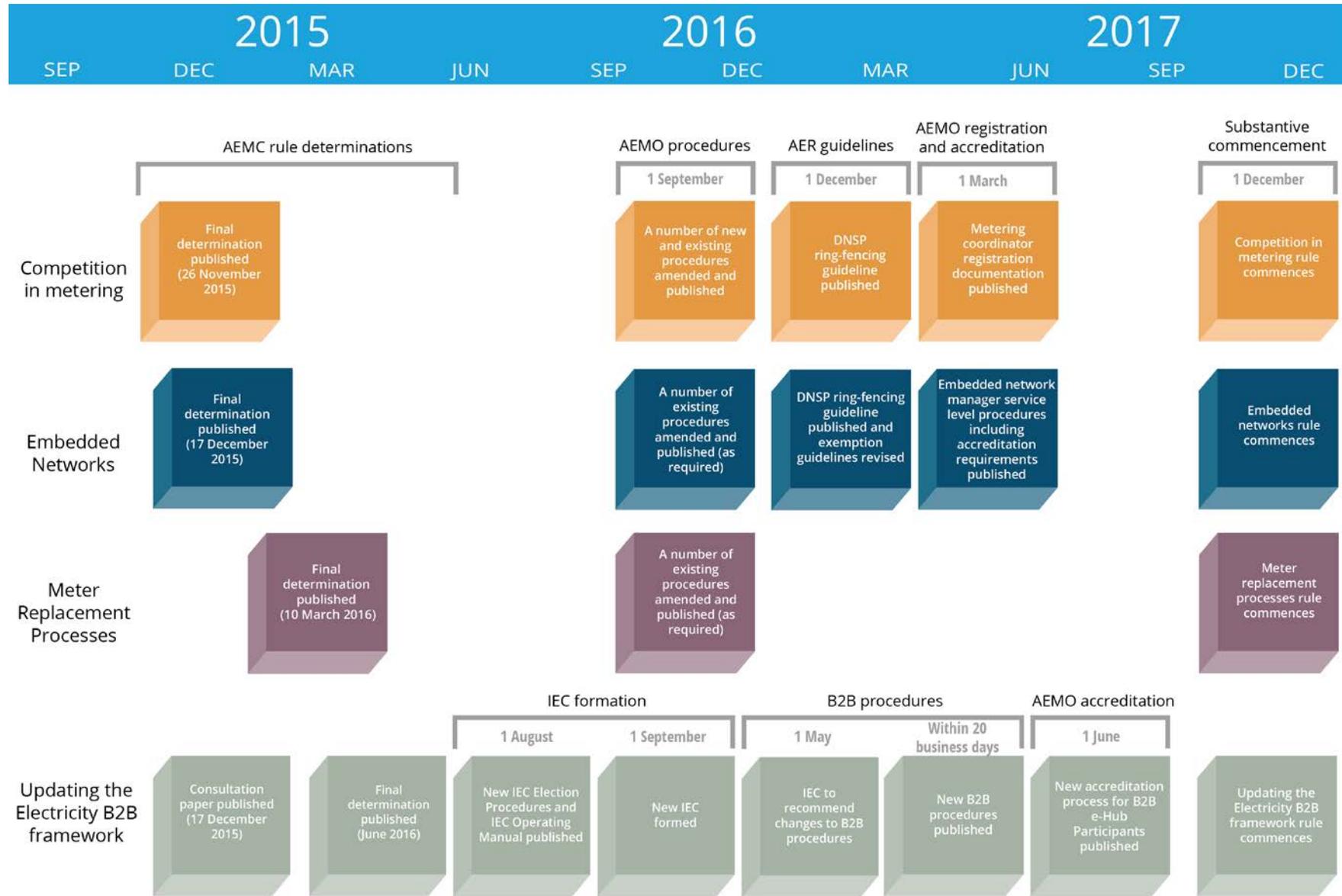
The Commission understands that the previous IEC began work on amendments to the B2B procedures arising from the competition in metering and the embedded networks final rules. Under the transitional requirements for those final rules, the IEC must provide a recommendation to change the B2B procedures to AEMO by 1 August 2016 and AEMO must publish those amended B2B procedures by 1 September 2016.

This final rule removes these transitional provisions because consideration of the competition in metering and embedded networks changes to the B2B procedures should be made by the new IEC, as it includes a greater range of members.

Removing these transitional provisions introduced under the competition in metering and embedded networks final rules will improve administrative efficiencies for the IEC and AEMO throughout the transition period to 1 December 2017, as it may consider all of the B2B changes through one process. These benefits should also flow to industry participants. In considering the procedure changes required for the competition in metering and embedded networks final rules, the new IEC will be able to make use of the work undertaken to date by the current IEC on draft initial changes to B2B procedures.

Figure 6.2 below sets out the key implementation timeframes as required by this final rule against the timeframes of related Power of Choice changes within the reform program.

Figure 6.2 Implementation timeframes under the final rule against other Power of Choice reforms



Abbreviations

AEC	Australian Energy Council
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
Commission	See AEMC
B2B	business to business
CEA	Competitive Energy Association, now the Australian Energy Council
COAG	Council of Australian Governments
DNISP	distribution network service provider
ECA	Energy Consumers Australia
IEC	Information Exchange Committee
MSATS	market settlements and transfer solutions
NEL	National Electricity Law
NER	National Electricity Rules
NEO	national electricity objective
NMI	national metering identifier
SMP	shared market protocol

A Summary of other issues raised in proposed rules and submissions

Where relevant, issues raised in the proposed rules and in stakeholder submissions have been addressed throughout the final rule determination. Table A.1 summarises and addresses the proposed amendments to the NER in each of the rule change requests that were not explicitly addressed in the body of the final rule determination. Table A.2 below summarises and addresses issues raised in stakeholder submissions that were not explicitly addressed in the body of the final rule determination.

Table A.1 Other amendments raised by the rule proponents

Section of proposed rule	Amendment	AEMC response
Red and Lumo proposed rule		
7.17.3(a)	Delete the requirement that B2B procedures 'may be constituted by one or more separate documents', which is currently found in clause 7.2A.4(g) of the NER.	No change. This text is necessary to allow for flexibility. The B2B procedures are already provided as separate documents.
7.17.3(a)(3)	Add 'may provide for any other B2B Communications as agreed by B2B e-Hub Participants that are additional to B2B Communications set out in 7.17.3(a)(1)'.	No change. The added text is unnecessary and duplicative with 7.17.3(a)(2).
7.17.3(a)(7)	Add 'any matter consequential or related to any of the above' as a content requirement for B2B procedures.	No change. The added text is unnecessary. Content requirements for B2B procedures are discussed in section 4.2.
7.17.3(b)	Replace 'must specify: 1. the required B2B Data inputs and B2B Data outputs;	No change. The existing wording is considered to provide greater clarity on the content requirements for procedures than the proposed rule. As such, the amendment is not considered necessary.

Section of proposed rule	Amendment	AEMC response
	<p>2. the required business process flows and related timing requirements;</p> <p>3. the required content and format;</p> <p>4. the required delivery method.'</p> <p>with: 'must specify the protocol which governs the manner, form and timing in which information is exchanged, notices or documents delivered, requests made and completed'.</p>	
Throughout proposed rule	Removal of term B2B data, replace where necessary with B2B communications.	No change. B2B communications are communications of a particular nature. B2B data is the actual information being communicated. Changing 'B2B data' to 'B2B communications' may potentially broaden the scope of the clause beyond the actual information being communicated through the B2B e-hub and give rise to some uncertainty as to what information is confidential.
7.17.4(c)(2)	Specifically allow the IEC to obtain additional information from the proponent of a B2B proposal.	While there is no express right under the final rule that the IEC may seek additional information from the party requesting the change, there is nothing to prevent the IEC from seeking such information.
7.17.4(e)	Include a more extensive process for making minor and administrative changes to B2B procedures, including a short consultation period that is not currently required.	Prescribing additional process for the IEC to make minor and administrative changes may provide for a more consultative process. However, the potential administrative burden and delay in implementing minor or administrative changes to the B2B procedures under such a requirement is likely to outweigh the benefits.
7.17.4	Include other general changes to create general consistency with process for amending other procedures under clause 7.16.7 of the competition in metering final rule.	In principle, there may be benefits from creating greater consistency between the procedure making processes and other procedures under Chapter 7 of the NER.

Section of proposed rule	Amendment	AEMC response
		<p>However, there are some inherent differences between the IEC's decision making process and AEMO's procedure making processes. For example, the IEC must provide an IEC recommendation to AEMO prior to it making a B2B procedure, which typically adds a month to the process.</p> <p>In addition, the proposal would have the effect of removing the level of prescription in relation to certain aspects of the IEC's procedure making process. This may increase uncertainty in the B2B procedure making process. Given no specific issues with the current process have been raised, the Commission does not consider these changes are necessary.</p>
Throughout proposed rule	Replace 'member' with 'representative'.	No change. The amendment is unnecessary.
7.17.14	Add 'For the purposes of this Part H only, representative means a person appointed to the Retail Industry Panel in that membership category as set out in the Retail Industry Panel Election Procedures'.	No change. This is not necessary given the Commission's decision to not change 'member' to 'representative'.
B2B factor (c)	The Red and Lumo proposal does not require the B2B factor on innovation and barriers to entry to be considered in the context of services that are 'facilitated by advanced meters'.	It is appropriate that a B2B factor on innovation and barriers to entry is considered in the context of advanced metering services. While some services will not be provided through the meter (ie 'infrastructure' services such as retailer switching or replacing a meter), B2B factor (c) would simply not be given any weight when considering B2B procedures related to those services. See section 4.4.
B2B factor (d)	The Red and Lumo proposal for a B2B factor on implementation timeframes considers the impacts on 'B2B e-hub participants.'	<p>The final rule includes a B2B factor on implementation timeframes, but with reference to the impact on 'B2B parties'. See section 4.4.</p> <p>'B2B e-hub participants' is a narrower group than 'B2B parties'. B2B parties not using the B2B e-hub will still be required to comply with B2B procedures. They would be affected by changes to B2B procedures and should be considered in the decision making process.</p>

Section of proposed rule	Amendment	AEMC response
COAG Energy Council proposed rule		
7.17.1(f)	Add that parties using an alternative to the B2B e-hub would still have to make the B2B communication 'by electronic means' and in accordance with B2B procedures.	No change. It is not necessary to restrict B2B communications in this way. Requirements for the B2B e-hub are discussed in section 5.2.
7.17.2(a)	Add that 'AEMO may accredit persons to be B2B e-Hub participants in accordance with this Rule'.	No change. The amendment is unnecessary and provisions for registration of registered participants and accreditation of metering providers and metering data providers have been framed in a similar way.
7.17.2(d)	Amend the eligibility for accreditation such that parties must demonstrate they can comply with 'B2B procedures', instead of 'rules and the procedures authorised under the rules'.	No change. B2B e-hub participants should demonstrate that they can comply with applicable requirements in the NER in addition to the requirements in B2B procedures.
7.17.3(a)(2)	Does not include a requirement that B2B procedures may provide for other B2B communications 'determined in accordance with the rules'.	It is preferable to include this requirement to clarify that the IEC must follow the process set out in the final rule when deciding on the content of B2B procedures.
7.17.3(a)(4)	Add 'and may specify requirements in accordance with which such B2B Communications must be made'.	No change. The proposed text may lead to restrictions on the ability of parties to agree to an alternative to the B2B e-hub. This is contrary to the policy set out in section 5.2.4.
7.17.3(a)(5)	Add 'may prescribe the manner in which B2B Parties can agree to communicate B2B Communications on a basis other than through the B2B e-Hub'.	No change. The proposed text may lead to restrictions on the ability of parties to agree to an alternative to the B2B e-hub. This is contrary to the policy set out in section 5.2.4.
Throughout the proposed rule	'B2B change date' replaced with 'B2B commencement date'.	No change. The amendment is not necessary.

Section of proposed rule	Amendment	AEMC response
7.17.4(a)	Clarification that the section includes new B2B procedures or a change to B2B procedures.	No change. The amendment is not necessary.
7.17.4(b)	Clarification from: 'The change date must be not less than 10 business days after the related B2B decision is published'; to 'The B2B commencement date must be not less than 10 business days after publication of the B2B Decision to approve an Information Exchange Committee Recommendation to make a new B2B Procedures or to make a change to the B2B Procedures'.	No change. The amendment is not necessary.
7.17.4(c)	Delete 'A change to the B2B Procedures may also include provisions relating to a date for the end of a process related to a B2B Communication. That date may be after the date of commencement of the change and may be left to the discretion of the Information Exchange Committee. If the date is set by the Information Exchange Committee, the Information Exchange Committee must provide AEMO with that date and AEMO must publish that date'.	No change. This clause provides flexibility to the IEC to include an end date for a process related to a specific B2B communication.
7.17.4(d)-(g)	Amendments to clarify the process for making changes to B2B procedures.	The final rule includes some minor drafting changes to clarify the process for making changes to B2B procedures. But these are different to the changes proposed by the COAG Energy Council. See clauses 7.17.4(d)-(g) of the final rule.
7.17.4(l)-(m)	Amendments to clarify the processes that the IEC must follow in addition to the rules consultation procedures.	The final rule includes some changes to clarify the process for consultation and developing draft and final reports. But these are different to the changes proposed by the COAG Energy Council. See clauses

Section of proposed rule	Amendment	AEMC response
		7.17.4(l)-(m) of the final rule.
7.17.10(e)-(i)	Replace 'appoint' with 'nominate and elect'.	The final rule includes some of the changes suggested by the COAG Energy Council where appropriate.
8.2A.2(i)	Removal of 'an IEC recommendation' such that parties must be affected by the B2B decision to access dispute resolution.	No change. The amendment is not appropriate as it would reduce the scope of access to dispute resolution arrangements. See section 4.4.4.
B2B procedure change pack	Amend definition such that it should include an assessment of the B2B proposal against the B2B factors and principles.	No change. It is not necessary or appropriate for the IEC to provide this assessment during the initial consultation stage. This assessment will be provided for consultation on publication of the draft report. See section 4.2.4.
IEC recommendation	New definition added.	No change. The amendment is not necessary given that the IEC must only make an IEC recommendation if it recommends the making of a B2B procedure. See section 4.4.4.
Member	New definition added.	The final rule includes the change, but with slightly different wording to that proposed by the COAG Energy Council.

Table A.2 Other issues raised in submissions

Stakeholder	Issue	AEMC response
Governance		
AGL, submission to the consultation paper, p. 2.	The IEC should include a non-voting AEMC member to ensure the policy intent behind the Power of Choice rule determinations are being met.	This is not necessary. The IEC may consult with AEMC if necessary. The IEC membership is discussed in section 3.2.
Submissions to the consultation paper: AGL, p. 3; United Energy, Appendix p. 5; AusNet Services, p. 6.	The IEC should be responsible for determining whether discretionary representatives are necessary.	Under the final rule AEMO will be responsible for appointing discretionary members. The Commission's rationale is set out in section 3.3.4.
CEA, submission to the consultation paper, p. 1.	The IEC should include greater industry representation.	Under the final rule the IEC includes up to eight industry members, plus a consumer member and an AEMO member. While some of the industry members are appointed by AEMO, they are appointed to represent the interests of a class of industry stakeholders.
Submissions to the consultation paper: Ergon, p. 4; Energex, p. 5; AusNet Services, p. 5.	The IEC chairperson should be independent. AEMO is not independent from IEC decisions and as chairperson may be able to influence decisions. Alternatively, the AEMO chairperson should have a non-voting role.	The rationale for the AEMO member being the IEC chairperson is set out in section 3.2.4. All IEC members may be involved in decision making by voting. See section 3.4.4.
United Energy, submission to the consultation paper, Appendix p. 4.	The AEMO member should be of senior executive level (reports to the CEO), such as the Executive General Manager Markets.	Under the final rule the AEMO member will be from the AEMO board of directors. See section 3.2.4.
Metropolis, submission to the consultation paper, p. 4.	The framework should ensure that smaller parties are represented in the metering and retailer member positions on the IEC.	While the final rule does not specifically require representation of smaller participants, the purpose of the discretionary member positions is to provide for wider business experience on the IEC (if necessary). See section 3.2.4.

Stakeholder	Issue	AEMC response
ECA, submission to the consultation paper, p. 2.	The consumer member should be nominated by ECA and then appointed by AEMO. ECA could provide a nominee with the requisite skills and abilities, which could be an existing staff member, an experienced industry volunteer or a consultant. If AEMO did not agree with the nomination ECA could provide another nominee.	Under the final rule AEMO will appoint a consumer member in consultation with Energy Consumers Australia. See section 3.2.4.
Simply Energy, submission to the consultation paper, p. 2. Submissions to the draft rule determination: Energex, p. 6; ENA, p. 1; Ergon Energy, p. 4.	IEC members should be elected by industry instead of being appointed by AEMO, given the IEC is a decision making body and not advisory.	The IEC under the final rule includes a combination of memberships elected by industry and appointed by AEMO. The rationale is set out in section 3.2.4.
Origin, submission to the consultation paper, p. 2.	Relevant industry bodies, such as the Competitive Energy Association (now the Australian Energy Council) or ENA, should manage nominations in the longer term.	The Commission does not consider this should be prescribed in the NER. This may be outlined in the IEC election procedures if necessary. See section 3.3.
AEMO, submission to the draft rule determination, p. 3.	Discretionary members should be appointed after the other members are elected to ensure a balanced representation.	The Commission does not consider this should be prescribed in the NER. This may be outlined in the IEC election procedures if necessary. See section 3.3.
ECA, submission to the consultation paper, p. 2.	Any nominee should be endorsed by the CEO of the organisation that has nominated that party. This will ensure they are supported by the organisation and support strategic issues.	The Commission does not consider this should be prescribed in the NER. This may be outlined in the IEC election procedures if necessary. See section 3.3.
United Energy, submission to the draft rule determination, p. 8.	The IEC should review the IEC structure two years after market start to determine whether there are new or unrepresented parties that should be discretionary members.	The final rule provides that AEMO is responsible for appointing discretionary members. Specific requirements with regard to timing may be set out in the IEC election procedures. See section 3.3.

Stakeholder	Issue	AEMC response
United Energy, submission to the consultation paper, Appendix p. 5.	Qualifications for IEC members should include independence, senior governance experience, executive and board networks and facilitation skills. Technical understanding is not a material selection criteria for these positions.	The requisite qualifications for IEC members are set out in section 3.3.4.
Metropolis, submission to the consultation paper, p. 3.	DNSPs should not be eligible to vote for metering members, as their interests are represented through the DNSP member. Alternatively, the two metering members should include 'regulated' and 'unregulated' representatives.	There are no restrictions on DNSPs in their capacity as initial metering coordinators voting for the metering member (see section 3.3.4). However, the purpose of the discretionary IEC membership positions is to provide for the IEC membership to have a diverse range of expertise, where required. See section 3.2.4.
ECA, submission to the consultation paper, p. 2.	There should not be an obligation that IEC members must canvas the opinion of the sector they represent.	The Commission does not consider this should be prescribed in the NER. However, such a requirement could be included in the IEC operating manual.
Submissions to the draft rule determination: AEC, p. 2; ERM, p. 4.	Rule 7.17.8(c) states that IEC members 'may take into account' the interests of people it is elected to represent. This should be a requirement that members 'must use their reasonable endeavours' to take into account the interests of the people it is elected to represent. This would ensure discussions are adequately informed.	Rule 7.17.8(c) allows members to take into account certain interests in order to avoid breach of the conflict of interest requirements. This is a different issue from requiring members to represent the interests of people they have been elected by. The Commission considers such a requirement is unnecessary. If an IEC member is not performing adequately they may be removed in accordance with any process set out in the IEC election procedures or may not be appointed or elected again.
EnergyAustralia, submission to the consultation paper, p. 2.	The IEC should be able to engage service providers other than AEMO to ensure delivery of the planned work program.	Previously the IEC was not required to use AEMO as the secretariat. This continues under the final rule.
United Energy, submission to the consultation paper, Appendix p. 6.	The IEC secretariat should maintain a list of all member businesses in each category to facilitate consultation, nomination and election.	The Commission does not consider this should be prescribed in the NER. This may be outlined in the IEC election procedures and operating manual if necessary.

Stakeholder	Issue	AEMC response
United Energy, submission to the consultation paper, Appendix p. 6.	Each IEC member should have to nominate an alternate to facilitate meetings.	The final rule provides for IEC member to appoint alternates. See clause 7.17.6(h) and (i).
Red and Lumo, submission to the draft rule determination, p. 10.	Drafting suggestion that clause 7.17.11(d) be amended to read that: AEMO must ensure than an appointee a nominee for a Discretionary Member or an appointee for the Consumer Member.	The final rule makes this editorial clarification, but in a different way to that suggested by Red and Lumo.
AGL, submission to the draft rule determination, p. 5.	It is unclear whether the AEMO member is subject to the material conflict of interest provisions in clause 7.17.8 of the draft rule.	The AEMO member is a member of the IEC and therefore is subject to the conflict of interest provisions. Conflict of interest issues are discussed in section 3.4.
Submissions to the consultation paper: EnergyAustralia, p. 2; United Energy, p. 2; AusNet Services, pp. 6-7. Submissions to the draft rule determination: AGL, p. 6; Ausgrid, p. 2; Energex, p. 5; ENA, p. 4; United Energy, p. 6.	<p>The IEC should have more ability to set its own budget. This could be done by:</p> <ul style="list-style-type: none"> • amending the definition of B2B costs include costs incurred by AEMO at the direction of the IEC chairperson, subject to those costs being within the agreed budget and recoverable; • providing that AEMO 'cannot unreasonably change or disallow the submitted IEC budget'; or • giving the IEC budget independence, for example like ECA under rule 8.10 of the NER. 	<p>The final rule does not alter the previous requirements related to the IEC submitting, and AEMO approving, an IEC budget. Amending the budget requirements may impact AEMO's ability to manage its own finances and recoup those costs through participant fees. It is appropriate that AEMO has oversight of this expenditure.</p> <p>Extensive changes to the IEC would be required to introduce a framework that is similar to ECA or otherwise allows the IEC to determine its own funding. Depending on the nature of the changes, the IEC may need to become a corporate entity that may hold and collect funds. The Commission does not consider this to be necessary or appropriate.</p>
AEMO, submission to the draft rule determination, p. 2.	The rule should clarify that AEMO may recover reasonable costs related to remuneration of the chairperson.	The final rule provides that AEMO may recover the costs relating to the AEMO member's participation in the IEC. See clause 7.17.13 and 'B2B costs' in Chapter 10.

Stakeholder	Issue	AEMC response
Procedures		
United Energy, submission to the consultation paper, Appendix p. 13.	If B2B procedures do not apply to large customers or CT/VT customers, the IEC should establish this in the application section of the B2B procedure.	This is an issue for the IEC to consider.
Submissions to the consultation paper: United Energy, p. 2; AusNet Services p. 14.	The definition of B2B communications should be amended to enable the IEC to include jurisdictional network billing in B2B procedures. Jurisdictional network billing has been legally interpreted as not relating to 'an end user or supply to an end user'.	This suggestion is out of scope for this rule change.
Submissions to the consultation paper: ENA, p. 3; Ausgrid, p. 4.	Load control and other commonly used services should be included in B2B procedures. Otherwise, these services will not be offered as DNSPs will have to negotiate multiple bespoke arrangements with metering coordinators.	As discussed in section 4.2.4, the IEC will be responsible for deciding the content of B2B procedures beyond the minimum requirements.
Ausgrid, submission to the consultation paper, p. 7.	B2B procedures should include functionality to prioritise and coordinate services, for example in an emergency situation.	This is a matter for the IEC to decide. The minimum content requirements for B2B procedures are set out in section 4.2.4.
Vector, submission to the consultation paper, p. 2.	Metering providers and metering data providers will need access to 'customer details request transaction' and 'site access notification', at a minimum, as they will increasingly perform site visits instead of the DNSP.	This is a matter for the IEC to decide. The minimum content requirements for B2B procedures are set out in section 4.2.4.
United Energy, submission to the draft rule determination, p. 9.	The B2B procedure change pack should include the interface specifications or 'build pack' material. This will allow participants to build to the same set of requirements and will minimise implementation timeframes.	Any timing requirements for a build pack for B2B changes is a matter for the IEC and AEMO to decide.

Stakeholder	Issue	AEMC response
Red and Lumo, submission to the draft rule determination, p. 10.	Drafting suggestion that clause 7.17.3(a)(2) should be redrafted to add more clarity on whether other B2B Communications can be additional to matters contemplated by the Rules or whether they are only in accordance with the Rules.	No change is required. Legally it is clear that the IEC can include other B2B communications in the B2B procedures, provided the B2B procedures are made in accordance with the NER.
B2B e-hub		
Metropolis, submission to the consultation paper, p. 3.	The current B2B e-hub technology is obsolete. Transaction based technology would not be able to provided streaming and other unidentified technologies.	The IEC may provide minimum performance requirements for the B2B e-hub in B2B procedures. See section 5.2.
Red and Lumo, submission to the draft rule determination, p. 10.	The e-hub should be operational 'on or before' 1 December 2017. This provides flexibility to begin operation a few days earlier to confirm accreditation and certification requirements and complete bulk changes in the lead up to commencement.	The Commission does not consider this change is necessary. There is nothing to prevent AEMO from operating the B2B e-hub before commencement in order to facilitate testing.
Red and Lumo, submission to the draft rule determination, p. 10.	Drafting suggestion that clauses 7.17.1(e) and 7.17.1(f) contain the same obligation and clauses 7.2A.2(a) and 7.2A.2(b) contain the same obligation.	The Commission considers that the obligations differ in nature and both are necessary in the final rule.
Accreditation		
United Energy, submission to the consultation paper, Appendix p. 9.	Accreditation will not eliminate the risks associated with providing advanced services, as parties may choose to use an alternative to the B2B e-hub and avoid accreditation.	<p>Certain parties will be required to comply with B2B procedures whether or not they are using the B2B e-hub. See section 5.3.4.</p> <p>With regard to third parties that choose not to become an accredited B2B e-hub participant, they may contract with metering coordinators to access services through the meter. See section 5.4.4.</p>

Stakeholder	Issue	AEMC response
Ausgrid, submission to the consultation paper, p. 7.	Network services and network data need to be accommodated in any revised accreditation process to mitigate against the risk of inadvertent network stability and security impacts (if B2B procedures are not defined enough)	Under the final rule, AEMO may decide an appropriate accreditation process for B2B e-hub participants. See section 5.4.4.
Ausgrid, submission to the consultation paper, p. 7.	Metering coordinators should be required to comply with relevant jurisdictional requirements, such as the NSW accredited service provider scheme.	Any applicable jurisdictional requirements would already apply to metering coordinators. There is no need to restate this in the B2B framework in the NER.
EDMI, submission to the consultation paper, p. 3.	The scope of or need for accreditation requirements may be influenced by the type of interactions between new parties.	Under the final rule, AEMO has a broad discretion to determine suitable accreditation requirements for participants. See section 5.4.4.
EDMI, submission to the consultation paper, p. 4.	There should be a difference between access to B2B test systems and B2B production systems. There could be different accreditation for access to a test system; options for one time or limited time access to test and production systems at a low or no fee; and allowing for 'sub-registration' to address where a service provider operates a managed service for an existing registered participant.	This will be determined by AEMO in its development of the B2B e-hub and accreditation requirements. See sections 5.2 and 5.4.
Cost recovery		
EnergyAustralia, submission to the draft rule determination, p. 4.	Given costs are likely to be higher in the early years of a new framework, AEMO and the AEMC should consider the consultation and timing of participant fees so the costs are allocated to the most suitable participants from the start.	AEMO is responsible for determining participant fees. See section 5.5.

Stakeholder	Issue	AEMC response
Implementation		
Submissions to the consultation paper: United Energy, Appendix p. 10; Energex, p. 8; Ausgrid, p. 3; AusNet Services, p. 7.	The B2B framework should be updated for the commencement of competition in metering final rule on 1 December 2017.	The substantive aspects of the new B2B framework commence under the final rule on 1 December 2017. See section 6.4.
Submissions to the consultation paper: EnergyAustralia, p. 4; ENA, p. 2; Energex, p. 8; AusNet Services, p. 12.	The commencement of competition in metering should be delayed to allow more time for implementation of new B2B arrangements. Restricting timeframes could lead to resourcing issues, sub-optimal outcomes and higher costs for industry.	The commencement of the competition in metering final rule will not be delayed to accommodate implementation of a new B2B framework. It is preferable, but not vital, that these reforms commence on the same date. See section 6.4.
Submissions to the consultation paper: Vector, pp. 4-5; EDMI, p. 5.	Commencement of a new B2B framework could occur after the commencement of the competition in metering final rule. It is not vital that the reforms are aligned and there may be benefits from delaying the new B2B framework, such as learning from early service providers.	While it is not vital that the B2B framework is updated for the commencement of the competition in metering final rule, it is preferable that these market reforms commence at the same time. This is expected to maximise benefits and efficiencies for small electricity customers. See section 6.4.
Submissions to the consultation paper:ERM, p. 4; EnergyAustralia, p. 5; United Energy, Appendix p. 10; Energex, p. 8.	Industry is likely to need 12 to 18 months to develop internal processes and systems following the publication of final B2B procedures.	The implementation timeframes and rationale are set out in section 6.5.
Submissions to the consultation paper: ERM, p. 4; EDMI, p. 5.	Implementation timeframes will be affected by certain decisions related to the B2B e-hub, such as whether it is backwards compatible.	The implementation timeframes and rationale are set out in section 6.5.

Stakeholder	Issue	AEMC response
Submissions to the draft rule determination: Ausgrid, p. 2; IEC, p. 2.	The NER should require the current B2B functionality to be maintained beyond the expansion of the B2B e-hub to accommodate those who will continue to provide basic type 5 and 6 metering.	The Commission considers it appropriate that the IEC and AEMO determine the functionality of the B2B e-hub. Under the final rule, the B2B e-hub must meet any performance requirements specified in the B2B procedures. See section 5.2.
Submissions to the consultation paper: Simply Energy, p. 3; Origin, p. 4; AusNet Services, p. 10.	AEMO should begin work on the new IEC election procedures and operating manual following the publication of a draft rule determination.	This is a matter for AEMO to consider.
Submissions to the draft rule determination: AGL, p. 4; ENA, p. 5; United Energy, p. 6; Active Stream, p. 2.	Work on the new B2B procedures should begin immediately, however AEMO's transitional IEC would not be operational until mid-June.	This is a matter for AEMO to consider.
EnergyAustralia, submission to the consultation paper, p. 3.	There should be independent oversight of the process for AEMO developing the first IEC election procedures and operating manual, such as by the AEMC.	It is not necessary for the AEMC to oversee the development of the IEC election procedures and operating manual. The final rule requires AEMO to develop the IEC election procedures and operating manual to take into account the final rule. This provides appropriate guidance to AEMO on the required content. See section 6.5.
United Energy, submission to the consultation paper, Appendix p. 5.	The current IEC should be responsible for developing the new IEC election procedures and operating manual.	It is more appropriate for AEMO to develop the first IEC election procedure and operating manual. If necessary, this may be amended in the future in accordance with the new provisions in the NER. See section 6.5.
Red and Lumo, submission to the consultation paper, p. 6.	The existing IEC should begin work on the new B2B procedures immediately. This work would be handed over to the new IEC once elected, to finalise the B2B procedure.	The final rule cannot introduce any requirements until the date of the final rule determination.
Ergon Retail, submission to the draft rule determination,	The transitional IEC should develop the B2B procedures.	Under the final rule, the new IEC is responsible for developing the B2B procedures. See section 6.5. However, this would not preclude any

Stakeholder	Issue	AEMC response
p. 1.		earlier work carried out by industry or a transitional IEC being provided to the new IEC for consideration.
United Energy, submission to the draft rule determination, p. 8.	The final rule should recognise work undertaken by the transitional IEC to develop the B2B procedures.	Under the final rule, the new IEC is responsible for developing the B2B procedures. See section 6.5. However, this would not preclude any earlier work carried out by industry or a transitional IEC being provided to the new IEC for consideration.
Submissions to the consultation paper: Ergon, p. 4; United Energy, Appendix p. 3; ENA, p. 1; Ausgrid, p. 2.	The existing IEC should develop new B2B procedures under the new B2B framework. The IEC would hold open meetings and workshops to take everyone's views into account. The new IEC would take over in early 2017 once the B2B procedures are finalised.	The previous IEC included DNSPs, local retailers and market customers. It is not appropriate for that group to be responsible for decisions under the new B2B framework. The final rule provides for a new IEC to be in place by 1 September 2016. See section 6.5.
ECA, submission to the consultation paper, p. 3.	To maintain corporate knowledge, new member categories should be elected immediately and added to the existing IEC. Then at a later date the retailer, DNSP and independent members would be replaced.	The final rule provides for a new IEC to be in place by 1 September 2016. It is expected that corporate knowledge will be maintained through certain interested parties continuing to engage in the B2B procedure making process through formal consultation and participation in working groups. See section 6.5.
EnergyAustralia, submission to the draft rule determination, p. 4.	The IEC should be able to decide to deliver the services in the minimum services specification at a date later than December 2017, if other transactions are determined to be more critical.	The final rule requires the IEC to develop B2B procedures to support the services in the minimum services specification by 1 December 2017. See section 6.5. However, there is no requirement for industry members to provide those services.
Submissions to the consultation paper: ERM, p. 4; United Energy, Appendix p. 13; ENA, Appendix p. 3; Energex, p. 9; AusNet Services, p. 20; Metropolis, p. 5.	Consultation requirements should not be reduced.	The final rule requires the new IEC to follow the rules consultation procedure process in developing B2B procedures. See section 6.5. The final rule requires AEMO to consult with DNSPs, retailers, local retailers, metering providers and metering data providers in developing the IEC election procedures and operating manual. See section 6.5. Metering coordinators, embedded network managers and third party

Stakeholder	Issue	AEMC response
		B2B participants will not exist yet and cannot be consulted.
United Energy, submission to the draft rule determination, p. 6.	A technical working group and planning and delivery working group should be set up immediately to develop and agree a realistic delivery plan and critical scope for day one.	The structure of IEC working groups is a matter for the IEC to decide. However, the Commission understands that AEMO has begun consideration of a work plan in conjunction with industry working groups.
Submissions to the consultation paper: ENA, p. 4; Energex, p. 9; AusNet Services, p. 11.	A 'readiness review' should be carried out in mid-2017 to identify and manage barriers to implementation.	The IEC is responsible for tracking its progress against the implementation requirements in the final rule.
Submissions to the draft rule determination: AGL, p. 2; Active Stream p. 1.	The three year power of choice review process should include an assessment of the B2B framework, to make sure it is working efficiently. This would include membership of the IEC.	The Commission does not consider this is necessary as the final rule provides sufficient flexibility for the IEC membership.
Red and Lumo, submission to the draft rule determination, p. 8.	It is unclear whether jurisdictions are able to amend jurisdictional specific procedures related to business communications during the implementation period.	Jurisdictional specific procedures related to business communications are not determined by AEMO or the IEC and are outside the scope of this rule change. There is nothing to prevent jurisdictions amending such procedures during the implementation period.

B Legal requirements under the NEL

This appendix sets out the relevant legal requirements under the NEL for the AEMC to make this final rule determination.

B.1 Final rule determination

In accordance with ss. 102 and 103 of the NEL, the Commission has made this final rule determination and final rule in relation to the rules proposed by COAG Energy Council, and Red Energy and Lumo Energy.

The Commission's reasons for making this final rule determination are set out in section 2.4.

A copy of the final rule, which is a more preferable final rule, is attached to and published with this final rule determination. Its key features are described in section 2.4.

B.2 Power to make the rule

The Commission is satisfied that the final rule falls within the subject matter about which it may make rules. The final rule falls within s. 34 of the NEL as it relates to s. 34(1)(a)(iii) - activities of persons (including registered participants) participating in the NEM or involved in the operation of the national electricity system. Further, the final rule falls within the matters set out in Schedule 1 to the NEL as it relates to item 32 - procedures and related systems for the electronic exchange or transfer of information that relates to consumers of electricity, the provision of metering services and connection to the national electricity system, and requiring compliance with such procedures and use of such related systems.

B.3 Power to make a more preferable final rule

Under s. 91A of the NEL, the Commission may make a rule that is different (including materially different) from a market initiated proposed rule if the Commission is satisfied that, having regard to the issue or issues that were raised by the proposed rule (to which the more preferable rule relates), the more preferable rule will, or is likely to, better contribute to the achievement of the NEO.

As discussed in Chapter 2, the Commission has determined to make a more preferable final rule. The reasons for the Commission's decision are set out in section 2.4.

B.4 Commission's considerations

In assessing the rule change request the Commission considered:

- the Commission's powers under the NEL to make the rule;

- the rule change requests;
- submissions received during first and second rounds of consultation; and
- the Commission’s analysis as to the ways in which the proposed rules will or are likely to, contribute to the NEO. This analysis included an assessment against the criteria outlined in section 2.3 of this final rule determination.

There is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles.³⁷⁸

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian Energy Market Operator (AEMO)’s declared network functions.³⁷⁹ The more preferable final rule is compatible with AEMO’s declared network functions because it is unrelated to them and therefore it does not affect the performance of these functions.

B.5 The rule making process

On 17 December 2015, the Commission published a notice advising of:

- the consolidation of the COAG Energy Council rule change request and the Red and Lumo rule change request;³⁸⁰
- the commencement of the rule making process and the first round of consultation in respect of the consolidated rule change request.³⁸¹

A consultation paper identifying specific issues and questions for consultation was also published. Submissions closed on 28 January 2016. The Commission received 19 submissions as part of the first round of consultation.

On 7 April 2016 the Commission published a notice and a draft rule determination in relation to the consolidated rule change request.³⁸² The draft rule determination included a draft rule.

A public forum was held in Melbourne on 29 April 2016 to provide stakeholders with the opportunity to provide early feedback to the AEMC for the preparation of the final rule determination.

³⁷⁸ Under s. 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for Energy. On 1 July 2011 the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated Council is now called the COAG Energy Council.

³⁷⁹ See s. 91(8) of the NEL.

³⁸⁰ This notice was published under s. 93 of the NEL.

³⁸¹ This notice was published under s. 95 of the NEL.

³⁸² This notice was published under s. 99 of the NEL.

The second round of consultation closed on 19 May 2016. The Commission received 18 submissions to the draft rule determination and draft rule.

All submissions are published on the AEMC website.³⁸³ A summary of the issues raised in the proposed rules and stakeholder submissions that are not otherwise addressed in this final rule determination is set out and addressed in Appendix A.

B.6 Civil penalty and conduct provisions

The final rule does not amend any clauses that are currently classified as civil penalty or conduct provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalty or conduct provisions.

³⁸³ www.aemc.gov.au.